

Re: FAO James Hamilton QC- re Ministerial code investigation

From: "Cole-Hamilton A (Alex), MSP" <alex.cole-hamilton.msp@parliament.scot>
To: [REDACTED]@gov.scot>
Date: Mon, 11 Jan 2021 21:53:33 +0000

Thank you, [REDACTED]
Alex

Sent from my iPhone

On 11 Jan 2021, at 17:26, [REDACTED]@gov.scot wrote:

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Dear Alex,

Further to my email this morning, Mr Hamilton has asked me to let you know that he is considering your correspondence, and will provide a response soon.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 11 January 2021 10:17
To: 'Cole-Hamilton A (Alex), MSP' <Alex.Cole-Hamilton.msp@parliament.scot>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP <Margaret.Mitchell.msp@parliament.scot>
Subject: RE: FAO James Hamilton QC- re Ministerial code investigation

Dear Alex,

Thank you for your email and attached correspondence. I am acting as the secretariat to James Hamilton, Independent Advisor, for his work on the ongoing Ministerial code investigation, so if you have any correspondence for Mr Hamilton then I am the right point of contact.

I have passed your letter to Mr Hamilton for his consideration.

Best wishes,

[REDACTED]

██████████ | Secretariat to the Independent Advisor under the Ministerial Code | Please
contact me on Skype or on ██████████

From: Cole-Hamilton A (Alex), MSP <Alex.Cole-Hamilton.msp@parliament.scot>
Sent: 10 January 2021 20:11
To: ██████████ <██████████@gov.scot>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP
<Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP
<Margaret.Mitchell.msp@parliament.scot>
Subject: FAO James Hamilton QC- re Ministerial code investigation
Importance: High

Dear ██████████

I understand that you have been seconded to support James Hamilton QC as he conducts
the ongoing Ministerial code investigation into Nicola Sturgeon.

I attach a letter to Mr Hamilton from Myself, Jackie Baillie MSP, Murdo Fraser MSP and
Margaret Mitchell MSP.

I'd be grateful if you could pass this to Mr Hamilton at your earliest convenience.

Kind regards and keep well
Alex

Alex Cole-Hamilton
Member of the Scottish Parliament for Edinburgh Western Constituency
The Scottish Parliament | Edinburgh | EH99 1SP and 151 St John's Road |
Edinburgh | EH12 7SD
alex.cole-hamilton.msp@parliament.scot

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RE: FAO James Hamilton QC- re Ministerial code investigation

From: [REDACTED]@gov.scot>
To: "Cole-Hamilton A (Alex), MSP" <alex.cole-hamilton.msp@parliament.scot>
Cc: "Baillie J (Jackie), MSP" <jackie.baillie.msp@parliament.scot>, "Fraser M (Murdo), MSP" <murdo.fraser.msp@parliament.scot>, "Mitchell M (Margaret), MSP" <margaret.mitchell.msp@parliament.scot>
Date: Mon, 11 Jan 2021 10:17:08 +0000

Dear Alex,

Thank you for your email and attached correspondence. I am acting as the secretariat to James Hamilton, Independent Advisor, for his work on the ongoing Ministerial code investigation, so if you have any correspondence for Mr Hamilton then I am the right point of contact.

I have passed your letter to Mr Hamilton for his consideration.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

From: Cole-Hamilton A (Alex), MSP <Alex.Cole-Hamilton.msp@parliament.scot>
Sent: 10 January 2021 20:11
To: [REDACTED]@gov.scot>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP <Margaret.Mitchell.msp@parliament.scot>
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Importance: High

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I attach a letter to Mr Hamilton from Myself, Jackie Baillie MSP, Murdo Fraser MSP and Margaret Mitchell MSP.

I'd be grateful if you could pass this to Mr Hamilton at your earliest convenience.

Kind regards and keep well
Alex

Alex Cole-Hamilton
Member of the Scottish Parliament for Edinburgh Western Constituency

**The Scottish Parliament | Edinburgh | EH99 1SP and 151 St John's Road I
Edinburgh I EH12 7SD**
alex.cole-hamilton.msp@parliament.scot

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Re: James Hamilton Investigation

From: [REDACTED] <[REDACTED]@bbc.co.uk>
To: [REDACTED]@gov.scot>
Date: Mon, 11 Jan 2021 18:15:47 +0000

Thanks for the reply [REDACTED]

On 11 Jan 2021, at 18:04, [REDACTED]@gov.scot wrote:

Dear [REDACTED]

Many thanks for your email. I am acting as the secretariat to James Hamilton, Independent Advisor, for his work on the ongoing Ministerial code investigation, so if you have any correspondence for Mr Hamilton then I am the right point of contact.

In response to your questions, Mr Hamilton does not propose to make any public comment pending the issuing of his report. Mr Hamilton has received a number of written submissions, and is currently undertaking analysis of these. As this process is ongoing, Mr Hamilton is not able to provide any specific timescales within which he expects to finish his work.

I hope this information is helpful.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

From: [REDACTED] <[REDACTED]@bbc.co.uk>
Sent: 11 January 2021 15:34
To: [REDACTED]@gov.scot>
Subject: James Hamilton Investigation

Dear [REDACTED]

I understand you are providing support for James Hamilton in his capacity as independent adviser on the ministerial code.

I wondered if he had acceded to the request from the MSPs Jackie Baillie, Alex Cole-Hamilton, Murdo Fraser and Margaret Mitchell to expand his investigation into whether the First Minister has been in breach of Section 1c of the code.

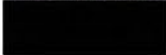
I also wondered when his report was due to be completed.

With best wishes,

[REDACTED]

[REDACTED]

BBC Scotland Political Correspondent



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Re: Draft letter for DFM

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Mon, 11 Jan 2021 21:45:13 +0000

Great, thanks 😊

On Mon 11 Jan 2021 at 21:39 <[REDACTED]@gov.scot> wrote:

No problem at all, that makes sense. I will issue the letter to DFM first thing tomorrow if that's ok?

I copied you into the BBC email mainly so you can see the final version of what was sent, but in such a way that the journalist shouldn't have your email address- definitely wouldn't want it to get into general media circulation!

From: James Hamilton <[REDACTED]@[REDACTED]>
Sent: 11 January 2021 20:06
To: [REDACTED]@gov.scot>
Subject: Re: Draft letter for DFM

[REDACTED]

Also I think it best if all communications go through you. Less chance of confusion, things overlooked or mislaid, etc. And you know the system, who to ring, how to check if the right person has got the message, etc.

James

On Mon 11 Jan 2021 at 19:35 James Hamilton <[REDACTED]@[REDACTED]> wrote:

I don't really want my email address to end up with Wapping and the BBC though I dare say it would not be at all difficult for them to get it if they don't already have it. What do you think?

J

On Mon 11 Jan 2021 at 17:01 <[REDACTED]@gov.scot> wrote:

Hi James,

Many thanks, I think the letter looks good and I don't see any problems with it. I have put the letter into the usual template and included the correct email details etc.

Given the timeframes and coronavirus restrictions on post (it's being quarantined for several days), I think it would be best to issue this by email in the first instance. I wondered if it would be best if that comes directly from your email, although if you would prefer for me to issue it I'm happy to do so.

DFM's email address is dfmcse@gov.scot

I will make a start on the MSP letter.

Best wishes,

[REDACTED]

From: James Hamilton <[REDACTED]@[REDACTED]>
Sent: 11 January 2021 16:01
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Re: Draft letter for DFM

Dear [REDACTED]

Draft letter with some revisions. Please let me know if you see any difficulties with the letter.

Can you also prepare a reply to go to the MSPs when I hear back from the DFM.

Best wishes

James

On Mon, 11 Jan 2021 at 15:08, <[REDACTED]@gov.scot> wrote:

Hi James.,

Please see attached first draft of a letter to DFM concerning the remit. I included the text on mediation as it seemed to me that the remit would cover this set of issues already- happy to discuss.

Best wishes,

[REDACTED]

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Draft letter for DFM

From: [REDACTED] <[REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Mon, 11 Jan 2021 15:08:31 +0000
Attachments: DFM letter- January 2021.docx (17.65 kB)

Hi James.,

Please see attached first draft of a letter to DFM concerning the remit. I included the text on mediation as it seemed to me that the remit would cover this set of issues already- happy to discuss.

Best wishes,

[REDACTED]

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, the remit for the referral is as follows:

- 1. Review any relevant documentation relating to the meetings and discussions listed above.*
- 2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.*
- 3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.*
- 4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.*
- 5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:*
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;*
 - ii. whether there has been any breach of the Code and the nature of any such breach; and*
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.*
- 6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.*

Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament is so closely connected to my remit that I am minded to include this within the scope of my  work.

I also wanted to note that I consider the allegations made by Mr Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I hope this information is helpful.

Yours sincerely,

James Hamilton

RE: Draft letter for DFM

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Mon, 11 Jan 2021 17:01:35 +0000
Attachments: Letter to DFM- 11 January 2021.docx (19.1 kB)

Hi James,

Many thanks, I think the letter looks good and I don't see any problems with it. I have put the letter into the usual template and included the correct email details etc.

Given the timeframes and coronavirus restrictions on post (it's being quarantined for several days), I think it would be best to issue this by email in the first instance. I wondered if it would be best if that comes directly from your email, although if you would prefer for me to issue it I'm happy to do so.

DFM's email address is dfmcse@gov.scot

I will make a start on the MSP letter.

Best wishes,

[REDACTED]

From: James Hamilton <[REDACTED]@[REDACTED]>
Sent: 11 January 2021 16:01
To: [REDACTED]@gov.scot>
Subject: Re: Draft letter for DFM

Dear [REDACTED]

Draft letter with some revisions. Please let me know if you see any difficulties with the letter.

Can you also prepare a reply to go to the MSPs when I hear back from the DFM.

Best wishes

James

On Mon, 11 Jan 2021 at 15:08, <[REDACTED]@gov.scot> wrote:

Hi James.,

Please see attached first draft of a letter to DFM concerning the remit. I included the text on mediation as it seemed to me that the remit would cover this set of issues already- happy to discuss.

Best wishes,

[REDACTED]

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James Hamilton
Independent Adviser on the Scottish Ministerial Code



John Swinney MSP
Deputy First Minister
By email to: dfmcse@gov.scot

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, in your reply to a parliamentary question in the Scottish Parliament on 3 August 2020, having made an express reference to sections 4.22 and 4.23 of the Ministerial Code, and having set out the sequence of meetings and discussions between the First Minister and Alex Salmond, you concluded with the statement that the remit for the referral was as follows:

- 1. Review any relevant documentation relating to the meetings and discussions listed above.*
- 2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.*
- 3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.*
- 4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.*

5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:

- i. whether the Ministerial Code is engaged regarding the meetings and discussions;*
- ii. whether there has been any breach of the Code and the nature of any such breach; and*
- iii. if a breach has occurred, advice on the appropriate remedy or sanction.*

6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament on a broad view appears to be within the scope of the remit but even on a narrower view is so closely connected to the remit that I am minded to include this within the scope of my report.

I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton

From: [REDACTED]
Sent: 11 January 2021 09:24
To: James Hamilton [REDACTED]
Subject: FW: FAO James Hamilton QC- re Ministerial code investigation
Importance: High

Hi James,

Please see attached letter from various MSPs (it's effectively the Conservative, Lib Dem and Labour members of the Parliamentary Committee).

The letter is to ask you to expand the remit of the investigation to include whether or not the FM misled Parliament in respect of the reporting of the meetings.

Best wishes,

[REDACTED]

From: Cole-Hamilton A (Alex), MSP <Alex.Cole-Hamilton.msp@parliament.scot>
Sent: 10 January 2021 20:11
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP <Margaret.Mitchell.msp@parliament.scot>
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Dear [REDACTED]

I understand that you have been seconded to support James Hamilton QC as he conducts the ongoing Ministerial code investigation into Nicola Sturgeon.

I attach a letter to Mr Hamilton from Myself, Jackie Baillie MSP, Murdo Fraser MSP and Margaret Mitchell MSP.

I'd be grateful if you could pass this to Mr Hamilton at your earliest convenience.

Kind regards and keep well
Alex

Alex Cole-Hamilton
Member of the Scottish Parliament for Edinburgh Western Constituency
The Scottish Parliament | Edinburgh | EH99 1SP and 151 St John's Road |
Edinburgh | EH12 7SD
alex.cole-hamilton.msp@parliament.scot

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10th January 2021

Dear Mr Hamilton

Your investigation into Nicola Sturgeon MSP under the terms of the Scottish Ministerial code

We are writing to you as a cross party group of MSPs, informed by our work as members of the committee of inquiry into the Scottish Government Handling of Harassment Complaints.

We note that under the terms of the self-referral by Nicola Sturgeon, your Ministerial Code investigation is currently limited to ascertaining whether the First Minister failed to feed back the basic facts of several meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code and furthermore whether she sought to influence the government handling of the complaints against him in any way.

Following sight of the account of the Former First Minister published on Friday and in light of other material available to our committee, we believe it is now vital that your investigation be expanded to include consideration of another potential breach, by the First Minister, this time of Section 1 (c) of the Ministerial code:

“Section 1 (c) It is of paramount importance that Ministers give accurate and truthful information to the Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead the Parliament will be expected to offer their resignation to the First Minister;”

Mr Salmond’s submission raises many questions, some are beyond the scope of our inquiry, but they are clearly at odds with the account of events offered to Parliament by the First Minister. If corroborated, Mr Salmond’s evidence could prove that the First Minister knowingly misled Parliament both orally and in writing on several occasions about when she first knew that the government was investigating complaints against the former First Minister and of her actions around the same. Equally, Mr Salmond may be fabricating his assertions in an effort to damage Ms Sturgeon. In any case these two versions of events cannot both be true and we believe it to be of paramount importance to the national interest that the facts of the matter are established.

It has been suggested that you are at liberty to expand the remit of your inquiry as you see fit. Indeed, on the 29th of October 2020, Nicola said at First Minister's Questions:

"My view right now is that James Hamilton, who is the adviser undertaking the investigation into the ministerial code, is not restricted at all in the issues that he can look at. If he thinks that there are any issues that engage the ministerial code or could in any way constitute a breach of the ministerial code, my view is that he is free to look at them."

You are independent of Scottish Ministers so may be unencumbered from expanding your own remit as the First Minister suggests. We would be grateful if you could clarify whether this is the case as you see it and if so whether you will now expand your investigation in the way we have asked.

We have written, today, to the Deputy First Minister asking him formally to expand your remit by directive should, you decide it is not within your power to do so yourself.

We look forward to your response.

Alex Cole-Hamilton MSP

Margaret Mitchell MSP

Jackie Baillie MSP

Murdo Fraser MSP

From: [REDACTED]
Sent: 11 January 2021 17:58
To: James Hamilton [REDACTED]
Subject: RE: FW: James Hamilton Investigation

Many thanks, I will issue the no comment line from before Christmas, plus the timing line, and Bcc you in.

[REDACTED]

From: James Hamilton [REDACTED]
Sent: 11 January 2021 16:08
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: Re: FW: James Hamilton Investigation

[REDACTED]

Line to the BBC agreed.

[REDACTED]

James

James

On Mon, 11 Jan 2021 at 15:45, [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)> wrote:
Hi James,

The BBC have been in touch asking for a comment on the MSP letter/remit issues. I would suggest a no comment on the first point, and a variant of the line used previously with the committee on the timing point.

e.g.

"Mr Hamilton has received a number of written submissions, and is currently undertaking analysis of these. As this process is ongoing, Mr Hamilton is not able to provide any specific timescales within which he expects to finish his work.

Best wishes,

[REDACTED]
J

From: Kirsten Campbell [REDACTED]
Sent: 11 January 2021 15:34
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: James Hamilton Investigation

Dear [REDACTED]

I understand you are providing support for James Hamilton in his capacity as independent adviser on the ministerial code.

I wondered if he had acceded to the request from the MSPs Jackie Baillie, Alex Cole-Hamilton, Murdo Fraser and Margaret Mitchell to expand his investigation into whether the First Minister has been in breach of Section 1c of the code.

I also wondered when his report was due to be completed.

With best wishes,

Kirsten

Kirsten Campbell

BBC Scotland Political Correspondent

[REDACTED]

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FW: FAO James Hamilton QC- re Ministerial code investigation

From: [REDACTED] <[REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Mon, 11 Jan 2021 09:24:10 +0000
Attachments: Letter to JHQC Jan21.docx (26.08 kB)

Hi James,

Please see attached letter from various MSPs (it's effectively the Conservative, Lib Dem and Labour members of the Parliamentary Committee).

The letter is to ask you to expand the remit of the investigation to include whether or not the FM misled Parliament in respect of the reporting of the meetings.

Best wishes,

[REDACTED]

From: Cole-Hamilton A (Alex), MSP <Alex.Cole-Hamilton.msp@parliament.scot>
Sent: 10 January 2021 20:11
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP <Margaret.Mitchell.msp@parliament.scot>
Subject: FAO James Hamilton QC- re Ministerial code investigation
Importance: High

Dear [REDACTED],

I understand that you have been seconded to support James Hamilton QC as he conducts the ongoing Ministerial code investigation into Nicola Sturgeon.

I attach a letter to Mr Hamilton from Myself, Jackie Baillie MSP, Murdo Fraser MSP and Margaret Mitchell MSP.

I'd be grateful if you could pass this to Mr Hamilton at your earliest convenience.

Kind regards and keep well
Alex

Alex Cole-Hamilton
Member of the Scottish Parliament for Edinburgh Western Constituency
The Scottish Parliament | Edinburgh | EH99 1SP and 151 St John's Road I
Edinburgh I EH12 7SD
alex.cole-hamilton.msp@parliament.scot

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will endeavour to keep your information accurate and up to date, and not keep it for longer than is necessary. The office of Alex Cole-Hamilton MSP is required to retain information in accordance with the law, such as information needed for income tax and audit purposes. How long certain kinds of personal data should be kept may also be governed by specific requirements and agreed practices. Personal data may be held in addition to these periods depending on individual requirements. For further information on the privacy policy of Alex Cole-Hamilton MSP please refer to my [privacy notice](#).

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10th January 2021

Dear Mr Hamilton

Your investigation into Nicola Sturgeon MSP under the terms of the Scottish Ministerial code

We are writing to you as a cross party group of MSPs, informed by our work as members of the committee of inquiry into the Scottish Government Handling of Harassment Complaints.

We note that under the terms of the self-referral by Nicola Sturgeon, your Ministerial Code investigation is currently limited to ascertaining whether the First Minister failed to feed back the basic facts of several meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code and furthermore whether she sought to influence the government handling of the complaints against him in any way.

Following sight of the account of the Former First Minister published on Friday and in light of other material available to our committee, we believe it is now vital that your investigation be expanded to include consideration of another potential breach, by the First Minister, this time of Section 1 (c) of the Ministerial code:

“Section 1 (c) It is of paramount importance that Ministers give accurate and truthful information to the Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead the Parliament will be expected to offer their resignation to the First Minister;”

Mr Salmond’s submission raises many questions, some are beyond the scope of our inquiry, but they are clearly at odds with the account of events offered to Parliament by the First Minister. If corroborated, Mr Salmond’s evidence could prove that the First Minister knowingly misled Parliament both orally and in writing on several occasions about when she first knew that the government

was investigating complaints against the former First Minister and of her actions around the same. Equally, Mr Salmond may be fabricating his assertions in an effort to damage Ms Sturgeon. In any case these two versions of events cannot both be true and we believe it to be of paramount importance to the national interest that the facts of the matter are established.

It has been suggested that you are at liberty to expand the remit of your inquiry as you see fit. Indeed, on the 29th of October 2020, Nicola said at First Minister's Questions:

"My view right now is that James Hamilton, who is the adviser undertaking the investigation into the ministerial code, is not restricted at all in the issues that he can look at. If he thinks that there are any issues that engage the ministerial code or could in any way constitute a breach of the ministerial code, my view is that he is free to look at them."

You are independent of Scottish Ministers so may be unencumbered from expanding your own remit as the First Minister suggests. We would be grateful if you could clarify whether this is the case as you see it and if so whether you will now expand your investigation in the way we have asked.

We have written, today, to the Deputy First Minister asking him formally to expand your remit by directive should, you decide it is not within your power to do so yourself.

We look forward to your response.

Alex Cole-Hamilton MSP

Margaret Mitchell MSP

Jackie Baillie MSP

Murdo Fraser MSP

From: [REDACTED]
Sent: 11 January 2021 15:00
To: James Hamilton [REDACTED]
Subject: Laura Dunlop review

Hi James,

As discussed, please see attached information about the Laura Dunlop review of the Complaints Procedure.

In undertaking this work, Ms Dunlop has been asked to *“have regard to other related enquiries, and comply with all legal restrictions and duties arising from: the prior civil and criminal proceedings; the need to protect the identity of the complainants; the independent review of FM’s conduct under the Ministerial Code; and the forthcoming Scottish Parliamentary Enquiry”*.

Best wishes,

[REDACTED]

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St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



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F/T: [REDACTED]
E: dfmcse@gov.scot

Linda Fabiani MSP
Convenor – Committee on the Scottish
Government Handling of Harassment Complaints
c/o Clerk to the Committee
Room T1.03
The Scottish Parliament
Edinburgh
EH99 1SP

3 August 2020

Dear Linda

Scottish Government Review of its Handling of Harassment Complaints Procedure

In your letter of 30 June to the Permanent Secretary you asked for an update on the review of the the Scottish Government's procedure for the Handling of Harassment Complaints Involving Current or Former Ministers.

I am writing to inform you that we will be announcing today, in response to a Parliamentary Question, that Laura Dunlop QC will be appointed to lead that review. A copy of my answer is attached at Annex A.

JOHN SWINNEY

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



S5W-31055

Clare Adamson MSP:

To ask the Scottish Government for an update on progress with the review of its procedure for the handling of harassment complaints involving current or former Ministers.

John Swinney MSP:

In my response to S5W-21344 on 31 January 2019, I advised Parliament that we would not be progressing the review of the application of the Scottish Government's procedure for handling complaints about Ministers or former Ministers at that time to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response to the global health emergency.

I am now however able to advise that Laura Dunlop QC has agreed to lead this review, which will commence this month.

The remit of the review is to:

1. Draw out the lessons from the first application of the procedure as followed through to decision. In particular, this will include the application of paragraph 10, and provide advice on any changes required to strengthen the content and future operation of the procedure.
2. Identify how best to support complainers in future without undermining the integrity of the process.
3. Consider what further steps could be taken to improve the procedure to meet its intention, including maintaining the confidence of Scottish Government staff in the approach which will be taken to handling such issues in future.

The findings and recommendations will be published by the Scottish Government in due course.

From: [REDACTED]

Sent: 12 January 2021 10:30

To: Deputy First Minister and Cabinet Secretary for Education and Skills
<DFMCSE@gov.scot>

Subject: FAO DFM- correspondence from James Hamilton

Dear Deputy First Minister,

Please see attached correspondence, sent on behalf of James Hamilton.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code
| Please contact me on Skype or [REDACTED]

James Hamilton
Independent Adviser on the Scottish Ministerial Code

John Swinney MSP
Deputy First Minister
By email to: dfmcse@gov.scot

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, in your reply to a parliamentary question in the Scottish Parliament on 3 August 2020, having made an express reference to sections 4.22 and 4.23 of the Ministerial Code, and having set out the sequence of meetings and discussions between the First Minister and Alex Salmond, you concluded with the statement that the remit for the referral was as follows:

- 1. Review any relevant documentation relating to the meetings and discussions listed above.*
- 2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.*
- 3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.*

- 4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.*
- 5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:*
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;*
 - ii. whether there has been any breach of the Code and the nature of any such breach; and*
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.*
- 6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.*

Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament on a broad view appears to be within the scope of the remit but even on a narrower view is so closely connected to the remit that I am minded to include this within the scope of my report.

I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton

James Hamilton- Ministerial Code Referral

From: [REDACTED]
To: [REDACTED]@dailymail.co.uk
Date: Tue, 12 Jan 2021 18:20:51 +0000

Dear [REDACTED]

Colleagues in Scottish Government communications team passed on your enquiry regarding the Ministerial Code inquiry being undertaken by James Hamilton. I am acting as the secretariat to Mr Hamilton for his work on this matter, so if you have any correspondence for Mr Hamilton then I am the right point of contact.

Mr Hamilton does not propose to make any public comment pending the issuing of his report.

Please let me know if you have any further questions.

Best wishes,

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

From: [REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 12 January 2021 12:51
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; [REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>
Cc: McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: RE: FAO DFM- correspondence from James Hamilton

Now with attachment

From: [REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 12 January 2021 12:46
To: [REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: RE: FAO DFM- correspondence from James Hamilton

Hi David and Rodger,

Please see letter we received this morning from James Hamilton.

I would appreciate some advice on this.

Thanks

[REDACTED]

██████████ | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel: ██████████ | Mob: ██████████ | Email: DFMCSE@gov.scot

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From: ██████████@gov.scot>
Sent: 12 January 2021 10:30
To: Deputy First Minister and Cabinet Secretary for Education and Skills
<DFMCSE@gov.scot>
Subject: FAO DFM- correspondence from James Hamilton

Dear Deputy First Minister,

Please see attached correspondence, sent on behalf of James Hamilton.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code |
Please contact me on Skype or on [REDACTED]

James Hamilton

Independent Adviser on the Scottish Ministerial Code



John Swinney MSP

Deputy First Minister

By email to: dfmcse@gov.scot

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein.

I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, in your reply to a parliamentary question in the Scottish Parliament on 3 August 2020, having made an express reference to sections 4.22 and 4.23 of the Ministerial Code, and having set out the sequence of meetings and discussions between the First Minister and Alex Salmond, you concluded with the statement that the remit for the referral was as follows:

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- 4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.*
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- 6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.*

Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament on a broad view appears to be within the scope of the remit but even on a narrower view is so closely connected to the remit that I am minded to include this within the scope of my report.

I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton

RE: FAO DFM- correspondence from James Hamilton

From: Deputy First Minister and Cabinet Secretary for Education and Skills
<dfmcse@gov.scot>
To: Deputy First Minister and Cabinet Secretary for Education and Skills
<dfmcse@gov.scot>, [REDACTED]@gov.scot, Rogers D
(David) (Constitution and Cabinet Director) <david.rogers@gov.scot>, Hynd JS
(James) <james.hynd@gov.scot>
Cc: McAllister C (Colin) <colin.mcallister@gov.scot>
Date: Tue, 12 Jan 2021 12:50:44 +0000
Attachments: Letter to DFM- 11 January 2021.docx (19.1 kB)

Now with attachment

From: [REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and
Cabinet Secretary for Education and Skills
Sent: 12 January 2021 12:46
To: [REDACTED]@gov.scot>; Rogers D (David) (Constitution and
Cabinet Director) <David.Rogers@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>;
McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: RE: FAO DFM- correspondence from James Hamilton
Hi David and Rodger,
Please see letter we received this morning from James Hamilton.
I would appreciate some advice on this.
Thanks

[REDACTED]
[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and
Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel:
[REDACTED] | Email: DFMCSE@gov.scot

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(Scotland) Act 2016. See www.lobbying.scot*

From: [REDACTED]@gov.scot>
Sent: 12 January 2021 10:30
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Subject: FAO DFM- correspondence from James Hamilton

Dear Deputy First Minister,
Please see attached correspondence, sent on behalf of James Hamilton.
Best wishes,

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please
contact me on Skype or on [REDACTED]

James Hamilton
Independent Adviser on the Scottish Ministerial Code



John Swinney MSP
Deputy First Minister
By email to: dfmcse@gov.scot

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

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- iii. if a breach has occurred, advice on the appropriate remedy or sanction.*

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I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton

From: Hynd JS (James) <James.Hynd@gov.scot>
Sent: 12 January 2021 17:52
To: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Subject: FW: Ministerial Code
Importance: High

James

James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh
Internal ext [REDACTED]
[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> On Behalf Of First Minister
Sent: 30 January 2019 21:03
To: Hynd JS (James) <James.Hynd@gov.scot>; First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: [REDACTED] <[REDACTED]@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Ellis T (Tim) <Tim.Ellis@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>
Subject: RE: Ministerial Code
Importance: High

James,

Thank you for the attached advice. The First Minister has responded that while the recommendation at paragraph 11 seems appropriate given the views expressed by the Crown Agent and the Independent Adviser, the FM would prefer to delegate the final decision on this matter to the Deputy First Minister.

Grateful if you would advise the Deputy First Minister accordingly.

John

[REDACTED]
Principal Private Secretary to the First Minister
Scottish Government

Work: [REDACTED]
Mob: [REDACTED]



Office of the First Minister of Scotland

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From: Hynd JS (James) <James.Hynd@gov.scot>

Sent: 30 January 2019 19:57

To: First Minister <firstminister@gov.scot>

Cc: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Permanent Secretary

<PermanentSecretary@gov.scot>; [REDACTED]

[REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Somers J

(John) <John.Somers@gov.scot>; Ellis T (Tim) <Tim.Ellis@gov.scot>; McAllister C (Colin)

<Colin.McAllister@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED]

[REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>

Subject: Ministerial Code

Top copy First Minister

James

James Hynd

Head of Cabinet, Parliament and Governance Division

Room 4N:03

St Andrew's House

Edinburgh

Internal [REDACTED]

[REDACTED]

FW: Note from DFM: Scottish Ministerial Code - First Minister's Self Referral

From: Hynd JS (James) <james.hynd@gov.scot>
To: Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>
Date: Tue, 12 Jan 2021 18:31:51 +0000
Attachments: Ministerial Code Referral -GIQ Remit July 2020 - DFM Note to FM -Final.docx (18.79 kB)

\~

\~

James

James Hynd

Head of Cabinet, Parliament and Governance Division

Room 4N:03

St Andrew's House

Edinburgh

[REDACTED]

\~

\~

\~

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills

Sent: 03 August 2020 12:51

To: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot>

Subject: Note from DFM: Scottish Ministerial Code - First Minister's Self Referral

\~

FMPO

\~

Please find attached a note from the Deputy First Minister for the attention of the First Minister.

\~

Many thanks

\~

[REDACTED]

\~

[REDACTED] | Deputy Private Secretary to John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG [REDACTED] | E: DFMCSE@gov.scot

\~

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\~

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\~

First Minister

Copy to: Permanent Secretary
Lesley Fraser
Kenneth Hogg
James Hynd

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF-REFERRAL

1. You have delegated to me responsibility for taking forward your self-referral under the Ministerial Code.
2. This note is to advise you that the remit for the referral has now been agreed with the independent adviser, James Hamilton.
3. I intend to advise Parliament about the scope of the remit by way of a written Parliamentary answer today, Monday 3 August. The terms of that answer are attached for your information.

JS
3 August 2020

Government Inspired Question and Answer
Monday, 3 August 2020

Clare Adamson [S5W: 31054]:

to ask the Scottish Government for an update on progress with the First Minister's self-referral under the Scottish Ministerial Code which was announced on 13 January 2019.

John Swinney MSP:

In my response to S5W:21344 on 31 January 2019, I advised Parliament that the Ministerial Code referral had to be paused to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response global health emergency. In light of the progress that has been made we are now able to re-commence the referral.

The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 29 March 2018 – Meeting between Ms Sturgeon and Geoff Aberdein, former Chief of Staff to Mr Salmond, Scottish Parliament
- 2 April 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 23 April 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.
- 7 June 2018 - Meeting between Ms Sturgeon and Mr Salmond at SNP Conference, Aberdeen.
- 14 July 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 18 July 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.

It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being

undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

Scottish Ministerial Code

The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

1.7. Where he or she deems it appropriate, the First Minister may refer matters to the independent advisers on the Ministerial Code to provide him or her with advice on which to base his or her judgement about any action required in respect of Ministerial conduct. The findings of the independent advisers will be published.

Contacts with External Individuals and Organisations, including Outside Interest Groups and Lobbyists

4.22 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Private Offices. A private secretary or official should be present for all discussions relating to Government business. Private Offices should arrange for the basic facts of formal meetings between Ministers and outside interest groups to be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented. A monthly list of engagements carried out by all Ministers is published three months in arrears.

4.23 If Ministers meet external organisations or individuals and find themselves discussing official business without an official present – for example at a party conference, social occasion or on holiday – any significant content (such as substantive issues relating to Government decisions or contracts) should be passed back to their Private Offices as soon as possible after the event, who should arrange for the basic facts of such meetings to be recorded in accordance with paragraph 4.22 above.

The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

Remit

The remit for the referral is to:

1. Review any relevant documentation relating to the meetings and discussions listed above.

2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.
3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.
4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.
5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;
 - ii. whether there has been any breach of the Code and the nature of any such breach; and
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.
6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Timing

The Independent Adviser is invited to commence the investigation and submit a report as soon as possible.

Publication

The terms of this remit will be published.

The final report will be published. If required, the report will be redacted to remove the risk of any complainer being identified and otherwise to ensure compliance with the terms of the order made by the court in the criminal proceedings.

Payment

Appointment as an Independent Adviser does not attract payment. Reasonable travel and subsistence costs will be paid in line with normal Civil Service rules.

Secretariat

The Scottish Government will provide secretariat support as required.

SCOTTISH GOVERNMENT

RE FAO DFM- correspondence from James Hamilton

From: Rogers D (David) (Constitution and Cabinet Director)
<"o=tse/ou=tseexchsite01/cn=recipients/cn=u114545">
To: Deputy First Minister and Cabinet Secretary for Education and Skills
<dfmcse@gov.scot>
Cc: Permanent Secretary <permanentsecretary@gov.scot>, Fraser L (Lesley)
<lesley.fraser@gov.scot>, Rennick NS (Neil) <neil.rennick@gov.scot>, Henderson
G (Gavin) <gavin.henderson@gov.scot>, [REDACTED]
<[REDACTED]@gov.scot>, McAllister C (Colin) <colin.mcallister@gov.scot>
Date: Wed, 13 Jan 2021 09:18:52 +0000
Attachments: Letter to DFM- 11 January 2021.docx (19.1 kB); Letter to DFM Jan21.docx (26.37
kB); Response to J Hamilton.docx (140.43 kB); Ministerial Code Referral -DFM to
FM, 13 Jan 2021.docx (14.94 kB)

Deputy First Minister

Copy to Permanent Secretary, Lesley Fraser, Neil Rennick, Craig French,
Gavin Henderson, [REDACTED] [REDACTED], Colin McAllister

MINISTERIAL CODE REFERRAL: CORRESPONDENCE FROM JAMES HAMILTON AND FROM ALEX COLE HAMILTON AND OTHERS

Mr Hamilton has written (as attached) to inform you about two matters that he
intends to cover in his report:

- reporting of meetings by the First Minister to the Parliament, and in
particular whether she broke Section 1(c) of the Ministerial Code in relation
to a meeting with Geoff Aberdein; and
- allegations made by Mr Salmond concerning whether or not the First
Minister should have intervened to arrange a process of mediation.

His letter offers you the opportunity to make any observations before he replies to
a group of MSPs including Alex Cole-Hamilton who have written to him asking
whether he considers his remit to include the first matter.

Separately Mr Cole-Hamilton and (we assume) the same group of MSPs has
written (also as attached) asking you to "widen" Mr Hamilton's remit to include the
first matters.

Draft reply

I attach a draft reply to Mr Hamilton that, if you agree, could issue this morning.

Informing the First Minister

If you are content to write to Mr Hamilton in these terms, we suggest that you
inform the First Minister of the correspondence given the on-going political debate
about the scope of Mr Hamilton's remit. I attach a draft minute from you to the
First Minister to issue once you have replied to Mr Hamilton.

Briefing for FMQs

The following could then be included in FMQ briefing for today.

My self-referral under the Ministerial Code is under way

- The remit of Mr Hamilton's work is well established.
- As the Deputy First Minister and I both advised Parliament last year, Mr Hamilton is free to consider evidence on any aspect of the Ministerial Code that he deems to be relevant.
- I am recused from this process, but the DFM has made me aware that Mr Hamilton himself has confirmed that his existing remit covers my reporting of meetings to the parliament and the allegations made by the former First Minister about mediation. There is therefore no question here. It is my expectation that he will consider those matters.

We will provide a draft reply to Mr Cole-Hamilton and others separately.

David Rogers

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House,
Edinburgh, EH1 3DG | [REDACTED] | E: david.rogers@gov.scot

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and
Cabinet Secretary for Education and Skills
Sent: 12 January 2021 12:51
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet
Director) <David.Rogers@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>
Cc: McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: RE: FAO DFM- correspondence from James Hamilton

Now with attachment

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and
Cabinet Secretary for Education and Skills
Sent: 12 January 2021 12:46
To: [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and
Cabinet Director) <David.Rogers@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>;
McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: RE: FAO DFM- correspondence from James Hamilton

Hi David and Rodger,

Please see letter we received this morning from James Hamilton.

I would appreciate some advice on this.

Thanks

[REDACTED]

[REDACTED] [REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and
Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel:
[REDACTED] | Email: DFMCSE@gov.scot

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From: [REDACTED] [REDACTED] [REDACTED]@gov.scot>
Sent: 12 January 2021 10:30
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Subject: FAO DFM- correspondence from James Hamilton

Dear Deputy First Minister,

Please see attached correspondence, sent on behalf of James Hamilton.

Best wishes,

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please
contact me on Skype or on [REDACTED]

James Hamilton
Independent Adviser on the Scottish Ministerial Code



John Swinney MSP
Deputy First Minister
By email to: dfmcse@gov.scot

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, in your reply to a parliamentary question in the Scottish Parliament on 3 August 2020, having made an express reference to sections 4.22 and 4.23 of the Ministerial Code, and having set out the sequence of meetings and discussions between the First Minister and Alex Salmond, you concluded with the statement that the remit for the referral was as follows:

- 1. Review any relevant documentation relating to the meetings and discussions listed above.*
- 2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.*
- 3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.*
- 4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.*

5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:

- i. whether the Ministerial Code is engaged regarding the meetings and discussions;*
- ii. whether there has been any breach of the Code and the nature of any such breach; and*
- iii. if a breach has occurred, advice on the appropriate remedy or sanction.*

6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament on a broad view appears to be within the scope of the remit but even on a narrower view is so closely connected to the remit that I am minded to include this within the scope of my report.

I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton



10th January 2021

Dear Deputy First Minister,

Formal request to expand the current Ministerial Code investigation of Nicola Sturgeon MSP, to include possible breaches of Section 1 (c).

We are writing to you as a cross party group of MSPs, informed by our work as members of the committee of inquiry into the Scottish Government Handling of Harassment Complaints. We ask that you formally expand the remit of the current investigation into whether Nicola Sturgeon breached the Ministerial code under the terms of Section 1(c) in relation to the harassment complaints against Alex Salmond, the government's handling of the same and her statements to Parliament on this matter.

Under the terms of the self-referral by Nicola Sturgeon, James Hamilton QC is currently limited to ascertaining whether the First Minister failed to feed back the basic facts of several meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code and furthermore whether she sought to influence the government handling of the complaints against him in any way.

Following sight of the account of the Former First Minister published on Friday and in light of other material available to our committee, we believe it is now vital that Mr Hamilton's investigation be expanded to include consideration of another potential breach, by the First Minister, this time of Section 1 (c) of the Ministerial code:

"Section 1 (c) It is of paramount importance that Ministers give accurate and truthful information to the Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead the Parliament will be expected to offer their resignation to the First Minister;"

Mr Salmond's submission raises many questions, some are beyond the scope of our inquiry, but they are clearly at odds with the account of events offered to Parliament by the First Minister. If corroborated, Mr Salmond's evidence could prove that the First Minister knowingly misled Parliament both orally and in writing on several occasions about when she first knew that your government was investigating complaints against the former First Minister and of her actions around the same. Equally, Mr Salmond may be fabricating his assertions in an effort to damage Ms Sturgeon. In any case these two versions of events cannot both be true and we believe it to be of paramount importance to the national interest that the facts of the matter are established.

When asked previously, both yourself and the First Minister have repeatedly suggested that James Hamilton QC is at liberty to expand the remit of his inquiry should the evidence require it. Indeed, on the 29th of October 2020, Nicola said at First Minister's Questions:

"My view right now is that James Hamilton, who is the adviser undertaking the investigation into the ministerial code, is not restricted at all in the issues that he can look at. If he thinks that there are any issues that engage the ministerial code or could in any way constitute a breach of the ministerial code, my view is that he is free to look at them."

However, we understand that as he is engaged in a quasi-judicial process, he cannot indulge in mission creep and that the remit may only be formally expanded by an official directive from your government.

Please consider this a formal request for you to widen the remit of Mr Hamilton's investigation with such a directive.

We look forward to your response.

Alex Cole-Hamilton MSP

Margaret Mitchell MSP

Jackie Baillie MSP

Murdo Fraser MSP

Deputy First Minister and Cabinet Secretary for
Education and Skills
John Swinney MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

F/T: [REDACTED]
E: dfmcse@gov.scot

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

By Email

13 January 2021

Dear Mr Hamilton

Thank you for your letter of 11 January about the First Minister's self-referral under the Ministerial Code.

I note your intention to address in your report a number of points that have been raised with you by some MSPs and also by the former First Minister.

As I set out in my letter to you of 4 November, both the First Minister and I have separately advised Parliament that you are free to consider evidence on any aspect of the Ministerial Code as you consider necessary and appropriate. Your intention to include these matters is therefore entirely consistent with the previous commitments we have made to Parliament.

Please let me know if there is anything further the Scottish Government can do to assist you.

JOHN SWINNEY

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



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First Minister

Copy to: Permanent Secretary
Lesley Fraser
Neil Rennick

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF-REFERRAL

1. You have delegated to me responsibility for taking forward your self-referral under the Ministerial Code.
2. This note is to advise you of the attached correspondence with the adviser, James Hamilton, about matters that he intends to cover in his report.

JS
13 January 2021

FOR ISSUE: James Hamilton letter

From: [REDACTED]@gov.scot>
To: [REDACTED]@gov.scot>
Cc: [REDACTED]@gov.scot>, [REDACTED]
[REDACTED]@gov.scot>, Rogers D (David) (Constitution and Cabinet Director)
<david.rogers@gov.scot>
Date: Wed, 13 Jan 2021 19:36:49 +0000
Attachments: Letter to DFM- 11 January 2021 (006).pdf (199.35 kB)

Hi [REDACTED]

~

As I think [REDACTED] briefed you, various media outlets have asked to see a copy of James Hamilton's letter. This has now been agreed.

~

Please could you send a copy to those who've asked on your system (Scotsman and Rachel Watson, Mail – please check), as well as those who were at the FMQ media briefing:

Tom Martin

Katrine Bussey

Chris Green

Tom Gordon

Michael Blackley

Kieran Andrews

~

Could you please include this line, cleared by DFM, with the letter?:

~

"Mr Hamilton has informed us of his intention to address in his report a number of points that have been raised with him by some MSPs and by the former First Minister. That is entirely within his existing remit. As the Deputy First Minister advised Parliament last year, in response to a parliamentary question, Mr Hamilton is free to consider evidence on any aspect of the Ministerial Code that he deems to be relevant."

~

Give me a call if you want to discuss

~

Thanks

~

[REDACTED]

~

[REDACTED] [REDACTED]

Corporate Communications [REDACTED]

Scottish Government | www.gov.scot | [Twitter](#) | [Facebook](#)

~

James Hamilton
Independent Adviser on the Scottish Ministerial Code

□

John Swinney MSP
Deputy First Minister
By email to: dfmcse@gov.scot

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, in your reply to a parliamentary question in the Scottish Parliament on 3 August 2020, having made an express reference to sections 4.22 and 4.23 of the Ministerial Code, and having set out the sequence of meetings and discussions between the First Minister and Alex Salmond, you concluded with the statement that the remit for the referral was as follows:

- 1. Review any relevant documentation relating to the meetings and discussions listed above.*
- 2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.*
- 3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.*
- 4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.*

5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:

- i. whether the Ministerial Code is engaged regarding the meetings and discussions;*
- ii. whether there has been any breach of the Code and the nature of any such breach; and*
- iii. if a breach has occurred, advice on the appropriate remedy or sanction.*

6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament on a broad view appears to be within the scope of the remit but even on a narrower view is so closely connected to the remit that I am minded to include this within the scope of my report.

I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton

Re: Draft correspondence- for comment

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Wed, 13 Jan 2021 12:36:42 +0000

And I think to FM also.

On Wed, 13 Jan 2021 at 12:36, James Hamilton <[REDACTED]@[REDACTED]> wrote:
Yes, that would be a good idea.

J

On Wed, 13 Jan 2021 at 12:13, <[REDACTED]@gov.scot> wrote:

Just a thought- would it be sensible to send a copy to DFM for information?

From: James Hamilton <[REDACTED]@[REDACTED]>
Sent: 13 January 2021 11:58
To: [REDACTED]@gov.scot>
Subject: Re: Draft correspondence- for comment

[REDACTED]

All fine thanks.

James

On Wed, 13 Jan 2021 at 11:56, <[REDACTED]@gov.scot> wrote:

As discussed, I've adjusted slightly. I haven't added anything on what to do with similar issues as the original letter was quite tightly focussed.

Once you are content I will issue the letter.

From: James Hamilton <[REDACTED]@[REDACTED]>
Sent: 13 January 2021 11:00
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Re: Draft correspondence- for comment

OK, we can discuss by phone.

James

On Wed, 13 Jan 2021 at 10:55, <[REDACTED]@gov.scot> wrote:

Hi James,

Please see attached first draft of a response to the MSPs. I have included a line that indicates you consider the reporting issues within remit- I wondered about this as it is a bit of a simplification of the position, happy to discuss.

Best wishes,

[REDACTED]

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RE: FAO James Hamilton QC- re Ministerial code investigation

From: [REDACTED] <[REDACTED]@gov.scot>
To: "Cole-Hamilton A (Alex), MSP" <alex.cole-hamilton.msp@parliament.scot>
Cc: "Baillie J (Jackie), MSP" <jackie.baillie.msp@parliament.scot>, "Fraser M (Murdo), MSP" <murdo.fraser.msp@parliament.scot>, "Mitchell M (Margaret), MSP" <margaret.mitchell.msp@parliament.scot>
Date: Wed, 13 Jan 2021 18:41:57 +0000
Attachments: James Hamilton- letter to MSPs- 13 Jan 2021.docx (16.09 kB)

Dear Alex,

Please see attached correspondence from Mr Hamilton.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 11 January 2021 17:26
To: 'Cole-Hamilton A (Alex), MSP' <Alex.Cole-Hamilton.msp@parliament.scot>
Cc: 'Baillie J (Jackie), MSP' <Jackie.Baillie.msp@parliament.scot>; 'Fraser M (Murdo), MSP' <Murdo.Fraser.msp@parliament.scot>; 'Mitchell M (Margaret), MSP' <Margaret.Mitchell.msp@parliament.scot>
Subject: RE: FAO James Hamilton QC- re Ministerial code investigation

Dear Alex,

Further to my email this morning, Mr Hamilton has asked me to let you know that he is considering your correspondence, and will provide a response soon.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 11 January 2021 10:17
To: 'Cole-Hamilton A (Alex), MSP' <Alex.Cole-Hamilton.msp@parliament.scot>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP <Margaret.Mitchell.msp@parliament.scot>
Subject: RE: FAO James Hamilton QC- re Ministerial code investigation

Dear Alex,

Thank you for your email and attached correspondence. I am acting as the secretariat to James Hamilton, Independent Advisor, for his work on the ongoing Ministerial code investigation, so if you have any correspondence for Mr Hamilton then I am the right point of contact.

I have passed your letter to Mr Hamilton for his consideration.

Best wishes,

[REDACTED]

[REDACTED] [REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please
contact me on Skype or on [REDACTED]

From: Cole-Hamilton A (Alex), MSP <Alex.Cole-Hamilton.msp@parliament.scot>
Sent: 10 January 2021 20:11
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP
<Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP
<Margaret.Mitchell.msp@parliament.scot>
Subject: FAO James Hamilton QC- re Ministerial code investigation
Importance: High

Dear [REDACTED],

I understand that you have been seconded to support James Hamilton QC as he conducts the ongoing Ministerial code investigation into Nicola Sturgeon.

I attach a letter to Mr Hamilton from Myself, Jackie Baillie MSP, Murdo Fraser MSP and Margaret Mitchell MSP.

I'd be grateful if you could pass this to Mr Hamilton at your earliest convenience.

Kind regards and keep well
Alex

Alex Cole-Hamilton
Member of the Scottish Parliament for Edinburgh Western Constituency
The Scottish Parliament | Edinburgh | EH99 1SP and 151 St John's Road I
Edinburgh I EH12 7SD
alex.cole-hamilton.msp@parliament.scot

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□

James Hamilton
Independent Adviser on the Scottish Ministerial Code

Alex Cole-Hamilton MSP
Margaret Mitchell MSP
Jackie Baillie MSP
Murdo Fraser MSP
By email to: Alex.Cole-Hamilton.msp@parliament.scot
Jackie.Baillie.msp@parliament.scot
Murdo.Fraser.msp@parliament.scot
Margaret.Mitchell.msp@parliament.scot

13 January 2021

Dear Alex Cole-Hamilton, Margaret Mitchell, Jackie Baillie and Murdo Fraser,

Thank you for your letter of 10 January 2021, in which you ask whether I will expand the remit of the Ministerial code investigation to include consideration of whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein.

As you know, the remit for my investigation was set out in response to PQ S5W-31054, answered by the Deputy First Minister in August 2020. The Deputy First Minister and First Minister have both subsequently confirmed to Parliament that in delivering this remit, I am free to consider evidence on any aspect of the Ministerial Code as I consider necessary and appropriate.

In the light of this, and considering the written statements and other information provided to me in recent months, I have concluded that the matter of reporting of the relevant meetings to the Parliament is within the scope of the remit, and I will cover it in my report.

I hope this information is helpful.

Yours sincerely,

James Hamilton

Re: FAO James Hamilton QC- re Ministerial code investigation

From: "Cole-Hamilton A (Alex), MSP" <alex.cole-hamilton.msp@parliament.scot>
To: [REDACTED]@gov.scot>
Date: Wed, 13 Jan 2021 19:59:04 +0000

Dear [REDACTED],

Many thanks for this and please extend my gratitude to Mr Hamilton for responding so swiftly and so positively.

Keep well

ACH

Sent from my iPhone

On 13 Jan 2021, at 18:42, [REDACTED]@gov.scot wrote:

CAUTION: This e-mail originated from outside of The Scottish Parliament. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Alex,

Please see attached correspondence from Mr Hamilton.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 11 January 2021 17:26
To: 'Cole-Hamilton A (Alex), MSP'
Cc: 'Baillie J (Jackie), MSP' ; 'Fraser M (Murdo), MSP' ; 'Mitchell M (Margaret), MSP'
Subject: RE: FAO James Hamilton QC- re Ministerial code investigation

Dear Alex,

Further to my email this morning, Mr Hamilton has asked me to let you know that he is considering your correspondence, and will provide a response soon.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 11 January 2021 10:17
To: 'Cole-Hamilton A (Alex), MSP' <Alex.Cole-Hamilton.msp@parliament.scot>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP

<Margaret.Mitchell.msp@parliament.scot>

Subject: RE: FAO James Hamilton QC- re Ministerial code investigation

Dear Alex,

Thank you for your email and attached correspondence. I am acting as the secretariat to James Hamilton, Independent Advisor, for his work on the ongoing Ministerial code investigation, so if you have any correspondence for Mr Hamilton then I am the right point of contact.

I have passed your letter to Mr Hamilton for his consideration.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

From: Cole-Hamilton A (Alex), MSP <Alex.Cole-Hamilton.msp@parliament.scot>

Sent: 10 January 2021 20:11

To: [REDACTED] <[REDACTED]@gov.scot>

Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP <Margaret.Mitchell.msp@parliament.scot>

Subject: FAO James Hamilton QC- re Ministerial code investigation

Importance: High

Dear [REDACTED],

I understand that you have been seconded to support James Hamilton QC as he conducts the ongoing Ministerial code investigation into Nicola Sturgeon.

I attach a letter to Mr Hamilton from Myself, Jackie Baillie MSP, Murdo Fraser MSP and Margaret Mitchell MSP.

I'd be grateful if you could pass this to Mr Hamilton at your earliest convenience.

Kind regards and keep well
Alex

Alex Cole-Hamilton

Member of the Scottish Parliament for Edinburgh Western Constituency

The Scottish Parliament | Edinburgh | EH99 1SP and 151 St John's Road |

Edinburgh | EH12 7SD

alex.cole-hamilton.msp@parliament.scot

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for longer than is necessary. The office of Alex Cole-Hamilton MSP is required to retain information in accordance with the law, such as information needed for income tax and audit purposes. How long certain kinds of personal data should be kept may also be governed by specific requirements and agreed practices. Personal data may be held in addition to these periods depending on individual requirements. For further information on the privacy policy of Alex Cole-Hamilton MSP please refer to my [privacy notice](#).

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From: [REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills

Sent: 13 January 2021 09:50

To: [REDACTED]@gov.scot>

Cc: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

Subject: Letter from John Swinney MSP

Dear [REDACTED]

Please find attached a letter for the attention of Mr Hamilton.

Kind regards

[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot
|Tel: [REDACTED] | Mob: [REDACTED] | Email: DFMCSE@gov.scot

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F/T [REDACTED]
E: dfmcse@gov.scot

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

By Email

13 January 2021

Dear Mr Hamilton

Thank you for your letter of 11 January about the First Minister's self-referral under the Ministerial Code.

I note your intention to address in your report a number of points that have been raised with you by some MSPs and also by the former First Minister.

As I set out in my letter to you of 4 November, both the First Minister and I have separately advised Parliament that you are free to consider evidence on any aspect of the Ministerial Code as you consider necessary and appropriate. Your intention to include these matters is therefore entirely consistent with the previous commitments we have made to Parliament.

Please let me know if there is anything further the Scottish Government can do to assist you.

JOHN SWINNEY



Draft correspondence- for comment

From: [REDACTED] <[REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Wed, 13 Jan 2021 10:55:31 +0000
Attachments: James Hamilton- letter to MSPs.docx (15.68 kB)

Hi James,

Please see attached first draft of a response to the MSPs. I have included a line that indicates you consider the reporting issues within remit- I wondered about this as it is a bit of a simplification of the position, happy to discuss.

Best wishes,

[REDACTED]

James Hamilton
Independent Adviser on the Scottish Ministerial Code

Alex Cole-Hamilton MSP
Margaret Mitchell MSP
Jackie Baillie MSP
Murdo Fraser MSP
By email to:

13 January 2021

Dear Alex Cole-Hamilton, Margaret Mitchell, Jackie Baillie and Murdo Fraser,

Thank you for your letter of 10 January 2021, in which you ask whether I will expand the remit of the Ministerial code investigation to include consideration of whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdeen.

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I hope this information is helpful.

Yours sincerely,

James Hamilton

FW: Letter from John Swinney MSP

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Wed, 13 Jan 2021 09:57:56 +0000
Attachments: Response to J Hamilton.pdf (148.31 kB)

Hi James,

Please see attached response from DFM.

I will send over a draft response to the MSPs' letter as soon as possible.

Best wishes,

[REDACTED]

From: [REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 13 January 2021 09:50
To: [REDACTED]@gov.scot>
Cc: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Subject: Letter from John Swinney MSP

Dear [REDACTED]

Please find attached a letter for the attention of Mr Hamilton.

Kind regards

Craig

[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel: [REDACTED] | Email: DFMCSE@gov.scot

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Deputy First Minister and Cabinet Secretary for
Education and Skills
John Swinney MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

F/T: [REDACTED]
E: dfmcse@gov.scot

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

By Email

13 January 2021

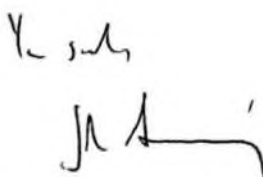
Dear Mr Hamilton

Thank you for your letter of 11 January about the First Minister's self-referral under the Ministerial Code.

I note your intention to address in your report a number of points that have been raised with you by some MSPs and also by the former First Minister.

As I set out in my letter to you of 4 November, both the First Minister and I have separately advised Parliament that you are free to consider evidence on any aspect of the Ministerial Code as you consider necessary and appropriate. Your intention to include these matters is therefore entirely consistent with the previous commitments we have made to Parliament.

Please let me know if there is anything further the Scottish Government can do to assist you.


JOHN SWINNEY

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From: [REDACTED] [REDACTED]@gov.scot> On Behalf Of Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 13 January 2021 09:50
To: [REDACTED]@gov.scot>
Cc: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Subject: Letter from John Swinney MSP

Dear [REDACTED]

Please find attached a letter for the attention of Mr Hamilton.

Kind regards

[REDACTED]
[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel: [REDACTED]
[REDACTED] | Mob: [REDACTED] | Email: DFMCSE@gov.scot

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F/T: [REDACTED]
E: dfmcse@gov.scot

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

By Email

13 January 2021

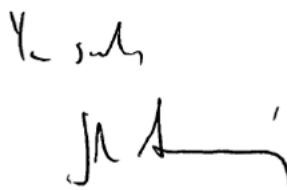
Dear Mr Hamilton

Thank you for your letter of 11 January about the First Minister's self-referral under the Ministerial Code.

I note your intention to address in your report a number of points that have been raised with you by some MSPs and also by the former First Minister.

As I set out in my letter to you of 4 November, both the First Minister and I have separately advised Parliament that you are free to consider evidence on any aspect of the Ministerial Code as you consider necessary and appropriate. Your intention to include these matters is therefore entirely consistent with the previous commitments we have made to Parliament.

Please let me know if there is anything further the Scottish Government can do to assist you.


JOHN SWINNEY



FW: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

From: [REDACTED]
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Thu, 14 Jan 2021 13:38:34 +0000

Please see attached additional information from the Permanent Secretary.

From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 13 January 2021 19:50
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

[REDACTED]

I am just following up on our previous correspondence. I think you are aware from colleagues in the OCT about some of the sensitivities relating to sharing documents.

My email of 12 October 2020 referred to 2 documents.

I am not able to provide you with a copy of the Permanent Secretary's note to the First Minister on 22 August 2018 informing her of the outcome of the investigation because this is legally privileged.

However, the email exchange between the Permanent Secretary and First Minister's private offices on 20 August has been shared with the Committee on the Scottish Government's handling of harassment complaints. It is INV 675 in FN42 of the initial Scottish Government statement on the investigation of the complaints shared with the Committee on 30 November 2020 – see link below:

https://www.parliament.scot/HarassmentComplaintsCommittee/General%20documents/SP_SGHH_C_-_FN42.pdf

Thanks

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]
andrew.bruce@gov.scot

From: Bruce A (Andrew)
Sent: 16 November 2020 18:32
To: [REDACTED] <[REDACTED]@gov.scot>

Cc: Permanent Secretary <PermanentSecretary@gov.scot>

Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

[REDACTED]
I haven't yet know. They are still with the OCT to confirm what can be released in line with the various legal obligations.

I'll chase again now.

Andy

Andy Bruce

Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]
andrew.bruce@gov.scot

From: [REDACTED] <[REDACTED]@gov.scot>

Sent: 16 November 2020 12:44

To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>

Cc: Permanent Secretary <PermanentSecretary@gov.scot>

Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

Hi Andy,

Apologies for chasing this up, I just wanted to check if you had sent these documents through?

Best wishes,

From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>

Sent: 12 October 2020 14:03

To: [REDACTED] <[REDACTED]@gov.scot>

Cc: Permanent Secretary <PermanentSecretary@gov.scot>

Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

[REDACTED]
Just a quick addition to the response I sent on behalf of the Permanent Secretary last week.

Paragraph 3 of the Permanent Secretary's letter refers to informing the First Minister of the outcome of the investigation of complaints against Mr Salmond at a meeting on 22 August 2018. However, the Permanent Secretary also sent the First Minister a written note on 22 August providing this information. I am just having that note prepared to be sent on to you, which I will do as soon as possible.

In addition, there was also some correspondence between the Permanent Secretary's private office and the First Minister's private office on 20 August 2018 setting out the likely timescales for the conclusion of the investigation. This followed the Permanent Secretary's letter to the First Minister on 17 August 2018. Again I will send this on to you with the document referenced above.

Apologies for this – it was an oversight on my part.

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government


andrew.bruce@gov.scot

From: Bruce A (Andrew) **On Behalf Of** Permanent Secretary
Sent: 07 October 2020 19:31
To:  [< @gov.scot>](mailto: @gov.scot)
Cc: Permanent Secretary [<PermanentSecretary@gov.scot>](mailto:PermanentSecretary@gov.scot)
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code


With apologies for the delay, please find attached the Permanent Secretary's response to Mr Hamilton's letter of 8 September.

Thanks

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government


andrew.bruce@gov.scot

From: Bruce A (Andrew) **On Behalf Of** Permanent Secretary
Sent: 06 October 2020 17:42
To:  [< @gov.scot>](mailto: @gov.scot)
Cc: Permanent Secretary [<PermanentSecretary@gov.scot>](mailto:PermanentSecretary@gov.scot)
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code


The Permanent Secretary is just finalising her response to Mr Hamilton. However, I'm afraid she will not be in a position to send this today, but will send it by close of play tomorrow.
I hope this is OK and please do pass on her apologies to Mr Hamilton.

Best wishes

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary

Scottish Government

andrew.bruce@gov.scot

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Permanent Secretary
Sent: 15 September 2020 11:41
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

Hello [REDACTED]

I would like to confirm receipt of James Hamilton's letter to the Permanent Secretary, which I note was copied to yourself. The Permanent Secretary will ensure she responds by the deadline set, 6th of October.

Best wishes,

[REDACTED]
Private Secretary to the Permanent Secretary [REDACTED] | [REDACTED] <[REDACTED]@gov.scot> | I lead on
[DG ECJ, DG HSC & DG ODO](#)
Scottish Ministers, Special Advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act
2016. See www.lobbying.scot



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your consideration.
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FW: FAO James Hamilton QC- re Ministerial code investigation

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Thu, 14 Jan 2021 10:24:02 +0000

Hi James,

Please see below response from Mr Cole-Hamilton.

Best wishes,

[REDACTED]

From: Cole-Hamilton A (Alex), MSP <Alex.Cole-Hamilton.msp@parliament.scot>
Sent: 13 January 2021 19:59
To: [REDACTED]@gov.scot>
Subject: Re: FAO James Hamilton QC- re Ministerial code investigation

Dear [REDACTED]

Many thanks for this and please extend my gratitude to Mr Hamilton for responding so swiftly and so positively.

Keep well

ACH

Sent from my iPhone

On 13 Jan 2021, at 18:42, [REDACTED]@gov.scot wrote:

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Dear Alex,

Please see attached correspondence from Mr Hamilton.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 11 January 2021 17:26
To: 'Cole-Hamilton A (Alex), MSP' <Alex.Cole-Hamilton.msp@parliament.scot>
Cc: 'Baillie J (Jackie), MSP' <Jackie.Baillie.msp@parliament.scot>; 'Fraser M (Murdo), MSP' <Murdo.Fraser.msp@parliament.scot>; 'Mitchell M (Margaret), MSP' <Margaret.Mitchell.msp@parliament.scot>
Subject: RE: FAO James Hamilton QC- re Ministerial code investigation

Dear Alex,

Further to my email this morning, Mr Hamilton has asked me to let you know that he is considering your correspondence, and will provide a response soon.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 11 January 2021 10:17
To: 'Cole-Hamilton A (Alex), MSP' <Alex.Cole-Hamilton.msp@parliament.scot>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP <Margaret.Mitchell.msp@parliament.scot>
Subject: RE: FAO James Hamilton QC- re Ministerial code investigation

Dear Alex,

Thank you for your email and attached correspondence. I am acting as the secretariat to James Hamilton, Independent Advisor, for his work on the ongoing Ministerial code investigation, so if you have any correspondence for Mr Hamilton then I am the right point of contact.

I have passed your letter to Mr Hamilton for his consideration.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

From: Cole-Hamilton A (Alex), MSP <Alex.Cole-Hamilton.msp@parliament.scot>
Sent: 10 January 2021 20:11
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Cc: Baillie J (Jackie), MSP <Jackie.Baillie.msp@parliament.scot>; Fraser M (Murdo), MSP <Murdo.Fraser.msp@parliament.scot>; Mitchell M (Margaret), MSP <Margaret.Mitchell.msp@parliament.scot>
Subject: FAO James Hamilton QC- re Ministerial code investigation
Importance: High

Dear [REDACTED]

I understand that you have been seconded to support James Hamilton QC as he conducts the ongoing Ministerial code investigation into Nicola Sturgeon.

I attach a letter to Mr Hamilton from Myself, Jackie Baillie MSP, Murdo Fraser MSP and Margaret Mitchell MSP.

I'd be grateful if you could pass this to Mr Hamilton at your earliest convenience.

Kind regards and keep well
Alex

Alex Cole-Hamilton
Member of the Scottish Parliament for Edinburgh Western Constituency
The Scottish Parliament | Edinburgh | EH99 1SP and 151 St John's Road |
Edinburgh | EH12 7SD
alex.cole-hamilton.msp@parliament.scot

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*

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<James Hamilton- letter to MSPs- 13 Jan 2021.docx>

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FW: Letter from the Deputy First Minister

From: Rogers D (David) (Constitution and Cabinet Director)
</o=tse/ou=tseexchsite01/cn=recipients/cn=u114545">
To: [REDACTED]@gov.scot>
Date: Fri, 15 Jan 2021 08:06:25 +0000
Attachments: SP committee - DFM to Convener JHQC 13012021.pdf (153.73 kB); Letter to DFM-11 January 2021 (006).pdf (199.35 kB); Response to J Hamilton.pdf (148.31 kB)

~

[REDACTED] I attach, for Mr Hamilton's information, a letter that DFM has sent to the Scottish Parliament's Harassment Committee.

~

David

~

~

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House,
Edinburgh, EH1 3DG | T: [REDACTED] | E: david.rogers@gov.scot

~

Leas Phrìomh Mhinistear agus Rùnaire a' Chaibineit
airson Foghlam agus Sgilean
Deputy First Minister and Cabinet Secretary for
Education and Skills



Scottish Government
Riaghaltas na h-Alba
gov.scot

John Swinney BPA/MSP
F/T: [REDACTED]
E: dfmcse@gov.scot

Linda Fabiani MSP
Convener – Committee on the Scottish
Government Handling of Harassment Complaints
c/o Clerk to the Committee
Room T1.03
The Scottish Parliament
Edinburgh
EH99 1SP

13 January 2021

Dear Linda

I attach, for your committee's information, an exchange of letters that I have had with Mr James Hamilton, the Independent Adviser on the Scottish Ministerial Code.

Mr Hamilton's letter sets out his intention, under his existing remit, for the First Minister's self-referral under the Ministerial Code to address a number of points that have been raised with him by some Members of the Committee and also by the former First Minister. I have confirmed that his intention to address these matters is entirely consistent with the previous commitments that both the First Minister and I have made to Parliament.

I am copying this letter to SPICE.



JOHN SWINNEY

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire
Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

Scottish Ministers, special advisers and the Permanent Secretary are covered
by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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James Hamilton
Independent Adviser on the Scottish Ministerial Code

□

John Swinney MSP
Deputy First Minister
By email to: dfmcse@gov.scot

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, in your reply to a parliamentary question in the Scottish Parliament on 3 August 2020, having made an express reference to sections 4.22 and 4.23 of the Ministerial Code, and having set out the sequence of meetings and discussions between the First Minister and Alex Salmond, you concluded with the statement that the remit for the referral was as follows:

- 1. Review any relevant documentation relating to the meetings and discussions listed above.*
- 2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.*
- 3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.*
- 4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.*

5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:

- i. whether the Ministerial Code is engaged regarding the meetings and discussions;*
- ii. whether there has been any breach of the Code and the nature of any such breach; and*
- iii. if a breach has occurred, advice on the appropriate remedy or sanction.*

6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament on a broad view appears to be within the scope of the remit but even on a narrower view is so closely connected to the remit that I am minded to include this within the scope of my report.

I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton

Deputy First Minister and Cabinet Secretary for
Education and Skills
John Swinney MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

F/T: [REDACTED]
E: dfmcse@gov.scot

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

By Email

13 January 2021

Dear Mr Hamilton

Thank you for your letter of 11 January about the First Minister's self-referral under the Ministerial Code.

I note your intention to address in your report a number of points that have been raised with you by some MSPs and also by the former First Minister.

As I set out in my letter to you of 4 November, both the First Minister and I have separately advised Parliament that you are free to consider evidence on any aspect of the Ministerial Code as you consider necessary and appropriate. Your intention to include these matters is therefore entirely consistent with the previous commitments we have made to Parliament.

Please let me know if there is anything further the Scottish Government can do to assist you.



JOHN SWINNEY

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FW: Ministerial code investigation

From: Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>
To: [REDACTED]@gov.scot>
Date: Fri, 15 Jan 2021 08:07:26 +0000
Attachments: 13012021 DFM Response to MSPs (003).pdf (236.29 kB)

[REDACTED] I attach, for Mr Hamilton's information, a letter that DFM has sent to the group of MSPs who had also written to Mr Hamilton.

David

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House,
Edinburgh, EH1 3DG | [REDACTED] | E: david.rogers@gov.scot



F/T: [REDACTED]
E: dfmcse@gov.scot

Alex Cole-Hamilton MSP
Margaret Mitchell MSP
Jackie Baillie MSP
Murdo Fraser MSP

By Email

13 January 2021

Dear Members

Thank you for your letter of 10 January about the First Minister's self-referral under the Ministerial Code.

I was somewhat surprised by the terms of your letter which do not appear to take account of what both the First Minister and I have said to Parliament about the scope for Mr Hamilton to report on any aspect of the Ministerial Code as he considers necessary.

At First Minister's Questions on 29 October the First Minister said:

My view right now is that James Hamilton, who is the adviser undertaking the investigation into the ministerial code, is not restricted at all in the issues that he can look at. If he thinks that there are any issues that engage the ministerial code or could in any way constitute a breach of the ministerial code, my view is that he is free to look at them. If he considers that that requires any change to his official remit, I am sure that he is perfectly able to say that. However, for the record and to be clear, I do not consider his remit to be limited to just one aspect of the ministerial code.

I confirmed this position on 6 November in an answer to PQ S5W-32472 from Alex Cole-Hamilton as follows:

Parliament was advised on 3 August 2020 about the terms of the remit for the Ministerial Code referral in PQ answer S5W 31054. The decision to proceed with a referral and the setting of its terms are consistent with the provisions set out in the Ministerial Code and have been agreed with the Independent Adviser. The terms of the remit address the concerns that have been raised about the First Minister's compliance with specific aspects of the Code in relation to certain meetings and other contacts, as described in the remit. As indicated by the First Minister at First Minister's Questions on 29 October, in delivering the remit the Independent Adviser is not constrained in taking evidence and reporting on other aspects of the Ministerial Code that he deems to be relevant.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

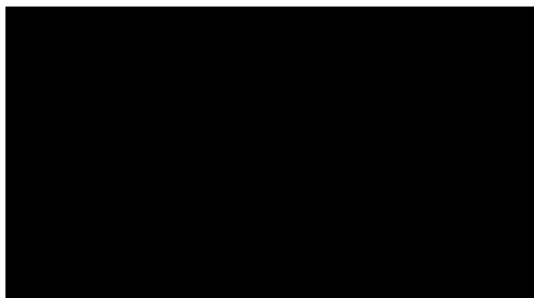


We could not therefore have been any clearer that Mr Hamilton has the maximum freedom to consider any aspect of the Ministerial Code that he believes is relevant.

Indeed, Mr Hamilton has written to me to confirm that he considers his existing remit to cover the matter that you raise – the First Minister’s reporting of meetings to the Parliament. He has also copied to me his letter to you this evening that makes the same point.

It is clear, therefore, that the concerns set out in your letter are entirely groundless and misplaced.

I have written to the Convener of the Committee on the Scottish Government Handling of Harassment Complaints with a copy of the letter I received from Mr Hamilton and my reply. I have also provided a copy of that correspondence to SPICE.



JOHN SWINNEY

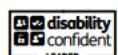
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FW: Letter from the Deputy First Minister

From: Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>
To: [REDACTED]@gov.scot>
Date: Fri, 15 Jan 2021 08:06:30 +0000
Attachments: SP committee - DFM to Convener JHQC 13012021.pdf (153.73 kB); Letter to DFM-11 January 2021 (006).pdf (199.35 kB); Response to J Hamilton.pdf (148.31 kB)

[REDACTED] I attach, for Mr Hamilton's information, a letter that DFM has sent to the Scottish Parliament's Harassment Committee.

David

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House,
Edinburgh, EH1 3DG [REDACTED] E: david.rogers@gov.scot



John Swinney BPA/MSP
F/T: [REDACTED]
E: dfmcse@gov.scot

Linda Fabiani MSP
Convener – Committee on the Scottish
Government Handling of Harassment Complaints
c/o Clerk to the Committee
Room T1.03
The Scottish Parliament
Edinburgh
EH99 1SP

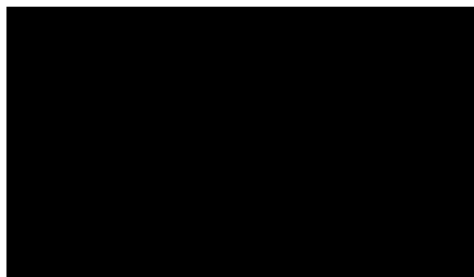
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JOHN SWINNEY

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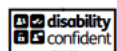
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James Hamilton
Independent Adviser on the Scottish Ministerial Code

□

John Swinney MSP
Deputy First Minister
By email to: dfmcse@gov.scot

11 January 2021

Dear Deputy First Minister,

I have received a letter from a number of MSPs, including Alex Cole-Hamilton, asking that I consider whether the First Minister broke Section 1(c) of the Ministerial code in relation to reporting to the Parliament of meetings between herself and Geoff Aberdein. I understand that Mr Cole-Hamilton and colleagues have also written to you on this subject.

As you know, in your reply to a parliamentary question in the Scottish Parliament on 3 August 2020, having made an express reference to sections 4.22 and 4.23 of the Ministerial Code, and having set out the sequence of meetings and discussions between the First Minister and Alex Salmond, you concluded with the statement that the remit for the referral was as follows:

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Having considered the evidence submitted to me by various participants, and the issues raised on this topic, I consider that the issue of reporting of meetings by the First Minister to the Parliament on a broad view appears to be within the scope of the remit but even on a narrower view is so closely connected to the remit that I am minded to include this within the scope of my report.

I also wanted to note that I consider the allegations made by Mr. Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation to be within the scope of the remit set out above.

I thought it appropriate to communicate this view to you before replying to the MSPs in case you wish to make any observations on the matter.

I hope this information is helpful.

Yours sincerely,

James Hamilton



F/T: [REDACTED]
E: dfmcse@gov.scot

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

By Email

13 January 2021

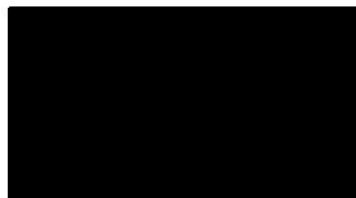
Dear Mr Hamilton

Thank you for your letter of 11 January about the First Minister's self-referral under the Ministerial Code.

I note your intention to address in your report a number of points that have been raised with you by some MSPs and also by the former First Minister.

As I set out in my letter to you of 4 November, both the First Minister and I have separately advised Parliament that you are free to consider evidence on any aspect of the Ministerial Code as you consider necessary and appropriate. Your intention to include these matters is therefore entirely consistent with the previous commitments we have made to Parliament.

Please let me know if there is anything further the Scottish Government can do to assist you.



JOHN SWINNEY



FW: Letter from the Deputy First Minister

From: [REDACTED]
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Fri, 15 Jan 2021 09:35:55 +0000
Attachments: SP committee - DFM to Convener JHQC 13012021.pdf (153.73 kB); Letter to DFM-11 January 2021 (006).pdf (199.35 kB); Response to J Hamilton.pdf (148.31 kB)

Copy of correspondence between the DFM and the Committee, for information.

From: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Sent: 15 January 2021 08:07
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: FW: Letter from the Deputy First Minister

[REDACTED] I attach, for Mr Hamilton's information, a letter that DFM has sent to the Scottish Parliament's Harassment Committee.

David

David Rogers
Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House,
Edinburgh, EH1 3DG | [REDACTED] | E: david.rogers@gov.scot



John Swinney BPA/MSP
F/T: [REDACTED]
E: dfmcse@gov.scot

Linda Fabiani MSP
Convener – Committee on the Scottish
Government Handling of Harassment Complaints
c/o Clerk to the Committee
Room T1.03
The Scottish Parliament
Edinburgh
EH99 1SP

13 January 2021

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James Hamilton
Independent Adviser on the Scottish Ministerial Code

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John Swinney MSP
Deputy First Minister
By email to: dfmcse@gov.scot

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I hope this information is helpful.

Yours sincerely,

James Hamilton



F/T: [REDACTED]
E: dfmcse@gov.scot

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

By Email

13 January 2021

Dear Mr Hamilton

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Please let me know if there is anything further the Scottish Government can do to assist you.

JOHN SWINNEY



From: James Hamilton [REDACTED] >
Sent: 18 January 2021 11:30
To: [REDACTED]@gov.scot>
Subject: Re: Correspondence- for comment

Hi 

I have expanded your draft somewhat. Please let me have your views on the redraft before you send it.

I assume you have official secrets legislation in Scotland. If so does it apply to SPADs? Is there any legislation governing SPADs?

Best wishes

James

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 18 January 2021 14:00
To: James Hamilton [REDACTED]
Subject: RE: Correspondence- for comment

I've adjusted the letter slightly- on the referencing what Mr Aberdein said, I've adjusted to make reference to him submitting a written statement to you, to avoid any confusion about who has/hasn't seen what went to the Committee.

I've also made some minor editing changes, let me know if these are ok.

From: James Hamilton [REDACTED]
Sent: 18 January 2021 13:13
To: [REDACTED] [@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: Re: Correspondence- for comment

Thanks [REDACTED] I think we should refer to what Mr Aberdein said to me. It needs to be stated very accurately. Can you suggest a draft?
James

On Mon, 18 Jan 2021 at 13:05, [REDACTED] [@gov.scot](mailto:[REDACTED]@gov.scot)> wrote:
Hi James,

Many thanks. The only difficulty I can see, and I should have included in my email, is that I don't think Geoff Aberdein's submission to the committee has yet been published. On that basis, I wonder about adjusting the reference in the letter to either state that Mr Aberdein mentioned it in his submission to you, or to refer back to other published submissions which cover this material?

Civil servants in Scotland are subject to the UK wide framework of official secrets legislation, the most recent Act being the Official Secrets Act 1989. This includes special advisors, who are effectively a special category of civil servant. I've copied more information about the Official Secrets acts below.

Best wishes,

[REDACTED]
ccj

The Official Secrets Acts 1911-1989 (OSAs) contain the principal protections against espionage and the unauthorised disclosure of information in the UK.

The 1911 Act makes provision in relation to spying, sabotage and associated crimes. The 1989 Act amends section 2 of the 1911 Act to create a number of new offences in relation to the unlawful disclosure of information and damaging disclosures in six specified categories.

The OSAs apply to current and former employees of the security and intelligence services, and current and former Crown servants and government contractors.

The OSAs apply to:

- Crown servants, including ministers of the Crown, members of the Scottish Government, junior Scottish ministers, civil servants, members of the armed forces and the police force*
- government contractors, including any person who is not a Crown servant, but who provides, or is employed in the provision of goods and services, for the purpose of any minister or any officeholder in the Scottish Administration*
- members of the public who have, or have had, information in their possession*
- individuals do not need to sign the OSAs in order to be bound by them - it is sufficient to be notified that they apply to you, including notification under an employment contract*

The 1989 Act makes the disclosure of official information in six protected categories an offence if the disclosure is made without lawful authority or if the disclosure is damaging.

'Information' includes any information, document or article which a Crown servant or a government contractor has or has had in their possession by virtue of their position.

For Crown servants, a disclosure is made with lawful authority if, and only if, it is made in accordance with his official duty.

For government contractors, a disclosure is made with lawful authority if it is made in accordance with an official authorisation or for the purposes of their functions as a government contractor and without contravening an official restriction.

In all other circumstances a disclosure is made without lawful authority.

The 1989 Act sets out the circumstances in which information is disclosed without lawful authority and a number of circumstances in which a damaging disclosure may be made.

From: James Hamilton [REDACTED]
Sent: 18 January 2021 11:30
To: [REDACTED]@gov.scot>
Subject: Re: Correspondence- for comment

Hi [REDACTED]

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Best wishes

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 19 January 2021 14:46
To: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>
Subject: RE: Personal- correspondence from the Independent Advisor on the Ministerial Code

Dear Liz,

Many thanks for your response.

I think Mr Hamilton would be looking for a written response as soon as reasonably possible, and would then use the video interview to discuss any remaining issues. A response shortly after Friday would be great. It may be the case, depending on Mr Hamilton's considerations of any written statement, that the video interview would not be needed; on that basis I would suggest we would want to leave enough of a gap (e.g. a few days) between receiving any written submission and the date of the interview to facilitate this process of consideration.

[REDACTED]

Best wishes,

[REDACTED]

From: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>
Sent: 19 January 2021 14:02
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: RE: Personal- correspondence from the Independent Advisor on the Ministerial Code

[REDACTED]

Thanks for this. Can I just check, Mr Hamilton is looking for a written response to his letter – and a video interview, or is the video interview the response to the letter.

I am expecting to appear at committee on Friday, and if he is looking for a written response, I would offer it shortly afterwards.

[REDACTED]

I am happy to discuss with Mr Hamilton if that would be helpful.

Regards

Liz Lloyd

Elizabeth Lloyd
Chief of Staff to the First Minister

St Andrew's House
Regent Road
Edinburgh EH1 3DG
Tel: [REDACTED]
Mobile: [REDACTED]
Elizabeth.Lloyd@gov.scot

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From: [REDACTED] <[REDACTED]@gov.scot>

Sent: 19 January 2021 10:47

To: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>

Subject: Personal- correspondence from the Independent Advisor on the Ministerial Code

Dear Ms Lloyd,

Please see attached correspondence from Mr Hamilton.

Mr Hamilton would also like to invite you to participate in a video interview, either in the week commencing 25th January or 1st February. If you are content to participate in a discussion, could you let me know your availability on the 25th- 27th January, and in the following week?

Please let me know if you have any questions.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code
| Please contact me on Skype or on [REDACTED].

From: James Hamilton <[REDACTED]>

Sent: 21 January 2021 12:37

To: [REDACTED] @gov.scot>

Subject: Re: FW: Personal- correspondence from the Independent Advisor on the Ministerial Code

Hi [REDACTED]

Let's see if the written response deals with the issues. Depending on that we may or may not need an interview.

I am curious to know what aspect of Mr Aberdeen's testimony gives rise to problems. Surely it should be possible to make redactions of whatever it is?

James

On Thu, 21 Jan 2021 at 11:42, <[REDACTED]@gov.scot> wrote:
Hi James,

Please see following email from Liz Lloyd. [REDACTED]
[REDACTED]

There are media reports today that the Committee will not publish Geoff Aberdeen's submission due to legal issues.

Liz Lloyd is giving evidence to the Committee tomorrow- I will watch the session as usual and then send the video link and OR when they are available.

Best wishes,

[REDACTED]

From: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>

Sent: 19 January 2021 14:02

To: [REDACTED] @gov.scot>

Subject: RE: Personal- correspondence from the Independent Advisor on the Ministerial Code

[REDACTED]

Thanks for this. Can I just check, Mr Hamilton is looking for a written response to his letter – and a video interview, or is the video interview the response to the letter.

I am expecting to appear at committee on Friday, and if he is looking for a written response, I would offer it shortly afterwards.

[REDACTED]

I am happy to discuss with Mr Hamilton if that would be helpful.

Regards

Liz Lloyd

Elizabeth Lloyd
Chief of Staff to the First Minister

St Andrew's House
Regent Road
Edinburgh EH1 3DG

Tel: [REDACTED]

Mobile: [REDACTED]

Elizabeth.Lloyd@gov.scot

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From: [REDACTED] [@gov.scot](mailto:[REDACTED]@gov.scot)>

Sent: 19 January 2021 10:47

To: [REDACTED] [@gov.scot](mailto:[REDACTED]@gov.scot)>

Subject: Personal- correspondence from the Independent Advisor on the Ministerial Code

Dear Ms Lloyd,

Please see attached correspondence from Mr Hamilton.

Mr Hamilton would also like to invite you to participate in a video interview, either in the week commencing 25th January or 1st February. If you are content to participate in a discussion, could you let me know your availability on the 25th- 27th January, and in the following week?

Please let me know if you have any questions.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code
| Please contact me on Skype or on [REDACTED].

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—

RE: Ministerial Code investigation- video interview- availability

From: [REDACTED]@gov.scot>
To: Bruce A (Andrew) <andrew.bruce@gov.scot>
Cc: Permanent Secretary <permanentsecretary@gov.scot>
Date: Thu, 21 Jan 2021 15:46:13 +0000

Hi Andy,

Many thanks, will do.

Best wishes,

[REDACTED]

From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 21 January 2021 15:40
To: [REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Jus to confirm that Perm Sec is happy to proceed with the interview by video conference next week. Please could you liaise with Olivia in the Perm Sec team about details?

Thanks

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]

andrew.bruce@gov.scot

From: [REDACTED]@gov.scot>
Sent: 21 January 2021 12:55
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi Andy,

Mr Hamilton would like to proceed with the interview, so can we confirm it in the diary?

Mr Hamilton would like to conduct the interview by videoconference, and I'm finalising the arrangements that would facilitate this. Would this be ok?

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 21 January 2021 12:13
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi Andy,

Apologies, this was on my to do list for today.

I will check with Mr Hamilton whether he would like the interview to go ahead, and if so will send some additional information on the arrangements.

Best wishes,

[REDACTED]

From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 21 January 2021 12:08
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]
We're just looking at Perm Sec's calendar for next week where we have been holding a slot for her to speak to Mr Hamilton. Do you yet know whether Mr Hamilton will definitely want to speak with Perm Sec?
Thanks
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]
andrew.bruce@gov.scot

From: Bruce A (Andrew)
Sent: 07 January 2021 12:58
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Thanks [REDACTED]

Olivia – please can you add to the diary?

Thanks

Andy

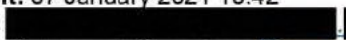
Andy Bruce
Principal Private Secretary to the Permanent Secretary

Scottish Government


andrew.bruce@gov.scot

From:   @gov.scot
Sent: 07 January 2021 12:32
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

That would be great, thanks. I will let you know as soon as I can whether the meeting is required.

From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 07 January 2021 10:42
To:   @gov.scot
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi 
Shall we hold 2.30-3.30 on Wednesday 27 January?
Thanks
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

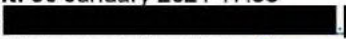

andrew.bruce@gov.scot

From:   @gov.scot
Sent: 07 January 2021 09:42
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

An hour would be enough I think.

Best wishes,



From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 06 January 2021 17:53
To:   @gov.scot
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

No problem 
How long do you think we should set aside?
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government


andrew.bruce@gov.scot

From:  _____@gov.scot
Sent: 06 January 2021 17:07
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

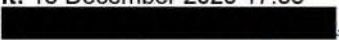
Hi Andy,

Apologies for the delay in getting back to you. Mr Hamilton could do any time that week. Could we hold a slot for a meeting in case it is needed? I can let you know closer to the time if it is required.

Happy to discuss.

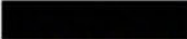
Best wishes,



From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 18 December 2020 17:35
To:  _____@gov.scot
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi 
Thanks for your message which I have discussed with the Permanent Secretary. She was wondering whether it would be possible to schedule an interview during the week commencing 25 January?
Thanks
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government


andrew.bruce@gov.scot

From:  _____@gov.scot
Sent: 16 December 2020 12:37
To: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: Ministerial Code investigation- video interview- availability

P/S Permanent Secretary,

As you know, James Hamilton is currently conducting an investigation into the First Minister's self-referral under the Ministerial Code. The Permanent Secretary has provided a written statement to Mr Hamilton.

As set out in his letter of September 2020, Mr Hamilton may wish to invite those who have provided written statements to him to participate in an interview to discuss the content of the written statement, and to allow Mr Hamilton to ask any supplementary questions.

Mr Hamilton is finalising his consideration of written statements, and would like to ask whether the Permanent Secretary would be available to participate in a video interview in the weeks commencing 11th and 18th January 2021?

Best wishes,

■■■■ ■■■■

Re: Perm Sec interview

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Fri, 22 Jan 2021 15:26:53 +0000

Hi [REDACTED]

Are you free for a quick word on the phone?

James

On Thu, 21 Jan 2021 at 15:46, James Hamilton <[REDACTED]@[REDACTED]> wrote:

Hi [REDACTED]

Let me think about this overnight and get back in the morning.

It would probably be useful if Mr Ross were present although perhaps not so important for this interview as for some of the others. It is more a precaution to have him in case I need to consult him on anything.

I will certainly share any list of questions with him. I will not have any list ready before Monday morning.

Best wishes

James

On Thu, 21 Jan 2021 at 14:36, <[REDACTED]@gov.scot> wrote:

Hi James,

No problems, I've confirmed the interview with Private Office.

I've attached an updated set of joining instructions covering key aspects of the interview procedure, with some questions about certain aspects. Happy to discuss.

Before we issue to participants I think it would be good to test that we can get Cisco Webex to work on our respective devices. I will also do a separate test of the meeting recording function/playback etc.

I also wanted to double check the following:

- would you like to share a list of questions in advance?
- would you like Mr Ross to be present?
- would you like Mr Ross to look at the questions before the interview?

Best wishes,

[REDACTED]

From: James Hamilton <[REDACTED].[REDACTED]@[REDACTED].[REDACTED]>
Sent: 21 January 2021 12:41
To: [REDACTED].[REDACTED]@gov.scot>
Subject: Re: Perm Sec interview

Hi [REDACTED]

I am inclined to get it out of the way. There may not be a whole lot I need to ask her about. I would be interested to know a little more about how the "Procedure" was adopted. It would also be important in my view to hear her confirm that the FM did not interfere in that process.

Best. wishes

James

On Thu, 21 Jan 2021 at 12:15, <[REDACTED].[REDACTED]@gov.scot> wrote:

Hi James,

Just wanted to check if you would like the Perm Sec interview to go ahead next week- her office have been in touch to confirm if it is going ahead as we held the slot on a contingency basis.

Best wishes,

[REDACTED]

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To: [REDACTED]@gov.scot>
Date: Fri, 22 Jan 2021 12:14:17 +0000
Attachments: LegalTerms.pdf (108.21 kB)



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8.1. Performance. Cisco warrants that: (a) for a period of 90 days from the Delivery Date or longer as stated in Documentation, or on www.cisco.com/go/warranty, the Software substantially complies with the Documentation; and (b) during the Usage Term, it provides the Cloud Services with commercially reasonable skill and care in accordance with the Documentation and any Product Specific Terms.

8.2. Malicious Code. Cisco will use commercially reasonable efforts to deliver the Cisco Technology free of Malicious Code.

8.3. Qualifications. Sections 8.1 and 8.2 do not apply if the Cisco Technology or the product that Cisco authorizes you to use it on: (a) has been altered, except by Cisco or its authorized representative; (b) has been subjected to abnormal physical conditions, accident or negligence, or installation or use inconsistent with this Agreement or Cisco's instructions; (c) is acquired on a free basis; or (d) is not a Cisco-branded product or service. Upon Your prompt written notification during the warranty period of Cisco's breach of this Section 8, Your sole and exclusive remedy (unless otherwise required by applicable law) is, at Cisco's option, either (i) repair or replacement of the applicable Cisco Technology or (ii) a refund of the (a) license fees paid or due for the non-conforming Software, or (b) the fees paid for the period in which the Cloud Service did not comply, excluding any amounts paid under a service level agreement/objective, if applicable.

Where Cisco provides a refund of license fees paid for Software, You must return or destroy all copies of the applicable Software. **Except as expressly stated in this Section, to the extent allowed by applicable law, Cisco expressly disclaims all warranties and conditions of any kind, express or implied, including without limitation any warranty, condition or other implied term as to merchantability, fitness for a particular purpose or non-infringement, or that the Cisco Technology will be secure, uninterrupted or error free.** If You are a consumer, You may have legal rights in Your country of residence that prohibit the limitations set out in this Section from applying to You, and, where prohibited, they will not apply.

Section 9. Liability

Neither party will be liable for indirect, incidental, exemplary, special, or consequential damages; loss or corruption of data or interruption or loss of business; or loss of revenues, profits, goodwill, or anticipated sales or savings. The maximum aggregate liability of each party under this Agreement is limited to (a) for claims solely arising from Software licensed on a perpetual basis, the fees received by Cisco for that Software; or (b) for all other claims, the fees received by Cisco for the applicable Cisco Technology and attributable to the 12 month period immediately preceding the first event giving rise to such liability.

These limitations of liability do not apply to liability arising from (a) Your failure to pay all amounts due; or (b) Your breach of Sections 2.1 (License and Right to Use), 3.1 (Cisco Technology Generally), 3.2 (Cloud Services) or 12.7 (Export). This limitation of liability applies whether the claims are in warranty, contract, tort (including negligence), infringement, or otherwise, even if either party has been advised of the possibility of such damages. Nothing in this Agreement limits or excludes any liability that cannot be limited or excluded under applicable law. This limitation of liability is cumulative and not per incident.

Section 10. Termination and Suspension

10.1. Suspension. Cisco may immediately suspend Your Usage Rights if You breach Sections 2.1 (License and Right to Use), 3.1 (Cisco Technology Generally), 3.2 (Cloud Services) or 12.7 (Export).

10.2. Termination. If a party materially breaches this Agreement and does not cure that breach within 30 days after receipt of written notice of the breach, the non-breaching party may terminate this Agreement for cause. Cisco may immediately terminate this Agreement if You breach Sections 2.1 (License and Right to Use), 3.1 (Cisco Technology Generally), 3.2 (Cloud Services) or 12.7 (Export). Upon termination of the Agreement, You must stop using the Cisco Technology and destroy any copies of Software and Confidential Information within Your control. If this Agreement is terminated due to Cisco's material breach, Cisco will refund You the prorated portion of fees You have prepaid for the Usage Rights beyond the date of termination. Upon Cisco's termination for Your material breach, You will pay Cisco any unpaid fees through to the end of the then-current Usage Term.

Section 11. Verification

During the Usage Term and for a period of 12 months after its expiry or termination, You will take reasonable steps to maintain complete and accurate records of Your use of the Cisco Technology sufficient to verify compliance with this Agreement ("**Verification Records**"). Upon reasonable advance notice, and no more than once per 12 month period, You will, within 30 days from Cisco's notice, allow Cisco and its auditors access to the Verification Records and any applicable books, systems (including Cisco product(s) or other equipment), and accounts during Your normal business hours. If the verification process discloses underpayment of fees: (a) You will pay such fees; and (b) You will also pay the reasonable cost of the audit if the fees owed to Cisco as a result exceed the amounts You paid for Your Usage Rights by more than 5%.

Section 12. General Provisions

12.1. Survival. Sections 4, 5, 6, 8, 9, 10, 11 and 12 survive termination or expiration of this Agreement.

12.2. Third-Party Beneficiaries. This Agreement does not grant any right or cause of action to any third party.

12.3. Assignment and Subcontracting. Except as set out below, neither party may assign or novate this Agreement in whole or in part without the other party's express written consent. Cisco may (a) by written notice to You, assign or novate this Agreement in whole or in part to an Affiliate of Cisco, or otherwise as part of a sale or transfer of any part of its business; or (b) subcontract any performance associated with the Cisco Technology to third parties, provided that such subcontract does not relieve Cisco of any of its obligations under this Agreement.

12.4. U.S. Government End Users. The Software, Cloud Services and Documentation are deemed to be "commercial computer software" and "commercial computer software documentation" pursuant to FAR 12.212 and DFARS 227.7202. All U.S. Government end users acquire the Cisco Technology and Documentation with only those rights set forth in this Agreement. Any provisions that are inconsistent with federal procurement regulations are not enforceable against the U.S. Government.

12.5. Modifications to the Agreement. Cisco may change this Agreement or any of its components by updating it on Cisco.com. Changes to the Agreement apply to any Entitlements acquired or renewed after the date of modification.

12.6. Compliance with Laws. Each party will comply with all laws and regulations applicable to their respective obligations under this Agreement. Cisco may restrict the availability of the Cisco Technology in any particular location or modify or discontinue features to comply with applicable laws and regulations.

If You use the Cisco Technology in a location with local laws requiring a designated entity to be responsible for collection of data about individual end users and transfer of data outside of that jurisdiction (e.g. Russia and China), You acknowledge that You are the entity responsible for complying with such laws.

12.7. Export. Cisco's Software, Cloud Services, products, technology, and services (collectively the "**Cisco Products**") are subject to U.S. and local export control and sanctions laws. You acknowledge and agree to the applicability of and

Your compliance with those laws, and You will not receive, use, transfer, export, or re-export any Cisco Products in a way that would cause Cisco to violate those laws. You also agree to obtain any required licenses or authorizations.

12.8. Governing Law and Venue. This Agreement, and any disputes arising from it, will be governed exclusively by the applicable governing law below, based on Your primary place of business (or primary residence, if you are not a business) and without regard to conflicts of laws rules or the United Nations Convention on the International Sale of Goods. The courts located in the applicable venue below will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to the Agreement or its formation, interpretation or enforcement. Each party hereby consents and submits to the exclusive jurisdiction of such courts. Regardless of the below governing law, either party may seek interim injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of Cisco's intellectual property or proprietary rights.

Your Primary Place of Business	Governing Law	Jurisdiction and Venue
Any location not specified below	State of California, United States of America	Superior Court of California, County of Santa Clara and Federal Courts of the Northern District of California
Australia	Laws of the State of New South Wales, Australia	State and Federal Courts of New South Wales
Canada	Province of Ontario, Canada	Courts of the Province of Ontario
China	Laws of the People's Republic of China	Hong Kong International Arbitration Center
Europe (excluding Italy), Middle East, Africa, Asia (excluding Japan and China), Oceania (excluding Australia)	Laws of England	English Courts
Italy	Laws of Italy	Court of Milan
Japan	Laws of Japan	Tokyo District Court of Japan
United States, Latin America or the Caribbean	State of California, United States of America	Superior Court of California, County of Santa Clara and Federal Courts of the Northern District of California

If You are a United States public sector agency or government institution located in the United States, the laws of the primary jurisdiction in which You are located will govern the Agreement and any disputes arising from it. For U.S. Federal Government customers, this Agreement will be controlled and construed under the laws of the United States of America.

12.9. Notice. Any notice delivered by Cisco to You under this Agreement will be delivered via email, regular mail, or postings on [Cisco.com](https://www.cisco.com). Notices to Cisco should be sent to Cisco Systems, Office of General Counsel, 170 Tasman Drive, San Jose, CA 95134 unless this Agreement, applicable Product Specific Terms or an order specifically allows other means of notice.

12.10. Force Majeure. Except for payment obligations, neither party will be responsible for failure to perform its obligations due to an event or circumstances beyond its reasonable control.

12.11. No Waiver. Failure by either party to enforce any right under this Agreement will not waive that right.

12.12. Severability. If any portion of this Agreement is not enforceable, it will not affect any other terms.

12.13. Entire agreement. This Agreement is the complete agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous communications, understandings or agreements (whether written or oral).

12.14. Translations. Cisco may provide local language translations of this Agreement in some locations. You agree that those translations are provided for informational purposes only and if there is any inconsistency, the English version of this Agreement will prevail.

12.15. Order of Precedence. If there is any conflict between this Agreement and any Product Specific Terms expressly referenced in this Agreement, the order of precedence is: (a) such Product Specific Terms; (b) this Agreement (excluding the Product Specific Terms and any Cisco policies); then (c) any applicable Cisco policy expressly referenced in this Agreement.

12.16. Language Election for Purchasers in Quebec. You confirm that this Agreement and any other documents You execute related to Your purchase of the Cisco Technology are provided in English only and that other related documents contemplated as part of Your purchase may also be provided in English only.

Section 13. Additional Terms Applicable to Webex Meetings

13.1. Restrictions on Use by Minor Children. The Webex Meetings Cloud Service is not intended for use by persons younger than the age of consent in their relevant jurisdiction (e.g., 13 years old in the United States under the US Children's Online Privacy Protection Act of 1998, or 16 or 13 years old in the European Union as per Member State law) ("Minor Children"). Minor Children are not permitted to create an account and You will not authorize Minor Children to access the Cisco Technology.

13.2. Geographic Terms and Restrictions. In accordance with global telecommunications law and regulations, the Webex Meetings Cloud Service is currently available in the countries listed [here](#). If You access the Webex Meetings Cloud Service in Pakistan using integrated VoIP, You are responsible, and Cisco has no liability for, ensuring that Your internet service provider has the necessary authorizations to provide VoIP.

13.3. PSTN Disclaimer. When Cisco includes dial-in numbers (not including toll-free numbers) and call back features in connection with the Webex Meetings Cloud Service, Cisco does not operate the underlying telecommunications facilities itself. Instead, Cisco obtains these capabilities from authorized operators at the wholesale level.

13.4. Cisco Webex Hybrid Services. Cisco Webex Hybrid Services allow You to connect Your existing on-premises infrastructure with the Webex cloud platform. If You choose to use Cisco Webex Hybrid Services, You will be required to download and install software applications on Your premises to enable integration with Cisco Webex ("Hybrid Software"). You exercise exclusive control over the Hybrid Software in Your environment. You will maintain the Hybrid Software in a secured environment accessible only to Your Authorized Users. You will replace or patch the Hybrid Software as new releases become available. You will implement and maintain appropriate technical and organizational measures designed to protect the Hybrid Software against accidental loss, destruction or alteration, unauthorized access, or unlawful destruction.

Cisco also recommends that You: (1) have an information security program appropriate to Your activities and services that complies with generally applicable data privacy and security laws and regulations; (2) conduct routine risk assessments of Your (or Your subcontractor's) information security program; (3) regularly employ a current version of industry leading virus and malware protection software; and (4) otherwise follow industry best practices to protect Your network environment.

Some countries may consider operation of the Hybrid Software a regulated activity. You represent and warrant that You

have obtained all requisite authority to operate the Hybrid Software. You agree that You will operate it only in those countries where the Webex Meetings Cloud Service is available and unrestricted. You also agree that Cisco is not responsible for any loss, damages, liabilities, settlement, costs, and expenses (including legal expenses and the expenses of other professionals) that You or any other party incurs as a result of Your breach of this Section 11(d).

13.5. Accounts for Personal Use. If You create an account to use the Webex Meetings Cloud Service for personal use, Your employer's policies will not apply to the data that You share while using the Webex Meetings Cloud Service. However, if You use Your employer-issued email address and Your employer later purchases the Webex Meetings Cloud Service from Cisco, You will be required to update the email address associated with Your account to a personal email address. Cisco recommends that You use Your personal email address to access the Webex Meetings Cloud Service for personal use. If You want to change Your email address, You can do so by following these [instructions](#). If You do nothing, Your account and personal data will be controlled by Your employer and Your use will be subject to Your employer's policies.

Section 14. Definitions

"Affiliate" means any corporation or company that directly or indirectly controls, or is controlled by, or is under common control with the relevant party, where "control" means to: (a) own more than 50% of the relevant party; or (b) be able to direct the affairs of the relevant party through any lawful means (e.g., a contract that allows control).

"Authorized Third Parties" means Your Users, Your Affiliates, Your third-party service providers, and each of their respective Users, permitted to access and use the Cisco Technology on Your behalf as part of Your Entitlement.

"Cisco" "we" "our" or "us" means Cisco Systems, Inc. or its applicable Affiliate(s).

"Cisco Content" means any (a) content or data provided by Cisco to You as part of Your use of the Cisco Technology and (b) content or data that the Cisco Technology generates or derives in connection with Your use. Cisco Content includes geographic and domain information, rules, signatures, threat intelligence, and data feeds, and Cisco's compilation of suspicious URLs.

"Cloud Service" means the Cisco hosted software-as-a-service offering or other Cisco cloud-enabled feature described in the applicable Product Specific Terms. Cloud Services include support, applicable Documentation and may also include Software.

"Confidential Information" means non-public proprietary information of the disclosing party ("Discloser") obtained by the receiving party ("Recipient") in connection with this Agreement, which is (a) conspicuously marked as confidential or, if verbally disclosed, is summarized in writing to the Recipient within 14 days and marked as confidential; or (b) is information which by its nature should reasonably be considered confidential whether disclosed in writing or verbally.

"Customer Data" means all information and data that You or Authorized Third Parties provide or transfer to Cisco or that the Cisco Technology collects from You, Your Authorized Third Parties or Your system(s), in connection with Your use of the Cisco Technology, including but not limited to data related to those Authorized Third Parties. Customer Data does not include Telemetry Data.

"Delivery Date" means the date agreed in Your Entitlement, or where no date is agreed: (a) where Usage Rights in Software or Cloud Services are granted separately: (i) for Software, the earlier of the date Software is made available for download or installation, or the date that Cisco ships the tangible media containing the Software, and (ii) for Cloud Services, the date on which the Cloud Service is made available for Your use; or (b) where Usage Rights in Software and Cloud Services are granted together, the earlier of the date Software is made available for download, or the date on which the Cloud Service is made available for Your use.

"Documentation" means the technical specifications and usage materials officially published by Cisco specifying the functionalities and capabilities of the applicable Cisco Technology.

"Entitlement" means the specific metrics, duration, and quantity of Cisco Technology that You acquire from Cisco.

“Malicious Code” means code that is designed or intended to disable or impede the normal operation of, or provide unauthorized access to, networks, systems, Software or Cloud Services, other than as intended by the Cisco Technology (for example, as part of some of Cisco's security products).

“Personal Data” is any information that can be used to identify an individual and may include name, address, email address, phone number, login information (account number and password), marketing preferences, social media account information or payment card number.

“Product Specific Terms” means additional product related terms applicable to the Cisco Technology You acquire as set at www.cisco.com/go/softwareterms or on the website from which you purchased.

“Software” means the Cisco computer programs including Upgrades, firmware and applicable Documentation.

“Telemetry Data” means all information and data that the Cisco Technology generates or derives in connection with Your use, including but not limited to, network policy, log and configuration information; threat intelligence data, URLs, metadata or net flow data; origin and nature of malware; the types of software or applications installed on a network or an endpoint; information about the devices connected to a network; information generated by sensors, devices and machinery; information related to the usage, origin of use, traffic patterns or behavior of the users of a network or the Cisco Technology; and information relating to the existence of cookies, web beacons and other similar applications.

“Upgrades” means all updates, upgrades, bug fixes, error corrections, enhancements and other modifications to the Software.

“Usage Term” means the period commencing on the Delivery Date and continuing until expiration or termination of the Entitlement, during which period You have the right to use the applicable Cisco Technology.

“User” means the individuals (including contractors or employees) permitted to access and use the Cisco Technology on Your behalf as part of Your Entitlement.

“You” means the individual or legal entity purchasing the Cisco Technology.

Re: Opening remarks

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Mon, 25 Jan 2021 12:05:27 +0000

[REDACTED]
I think this looks fine.

J

On Mon, 25 Jan 2021 at 10:42, <[REDACTED]@gov.scot> wrote:

Hi James,

Please see attached draft opening remarks.

Best wishes,

[REDACTED]

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return.

Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not necessarily reflect those of the Scottish Government.

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For more information please visit <http://www.symanteccloud.com>

From: James Hamilton [REDACTED]
Sent: 25 January 2021 17:04
To: [REDACTED]@gov.scot>
Subject: Questions for Ms Leslie Evans

Hi Rebecca

List of proposed questions herewith.

[REDACTED]

Best wishes

James

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

[illegible]

From: [REDACTED]
Sent: 25 January 2021 09:43
To: James Hamilton [REDACTED]
Subject: FW: Correspondence for Mr James Hamilton

Hi James,

Please see attached additional correspondence from Mr Salmond. It provides some additional information on issues raised in his submission.

Best wishes,

[REDACTED]

From: Alex Salmond [REDACTED]
Sent: 25 January 2021 09:30
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: Correspondence for Mr James Hamilton

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

RE: Ministerial Code investigation- video interview- availability

From: [REDACTED]@gov.scot>
To: Permanent Secretary <permanentsecretary@gov.scot>
Cc: Bruce A (Andrew) <andrew.bruce@gov.scot>
Date: Tue, 26 Jan 2021 15:53:17 +0000
Attachments: Video Interview- joining instructions.docx (15.02 kB)

Hi [REDACTED]

Apologies for the delay- please see attached background note. Main thing to highlight would be that we would intend to record the interview to allow a transcript to be produced- please let me know if that would be ok.

If it would be helpful to arrange a technical test tomorrow morning let me know.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 25 January 2021 16:12
To: Permanent Secretary <PermanentSecretary@gov.scot>
Cc: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Many thanks, I've sent over the request just now. Additional short background note setting out things like attendee list etc. to follow shortly.

Best wishes,

[REDACTED]

From: [REDACTED]@gov.scot> **On Behalf Of** Permanent Secretary
Sent: 25 January 2021 13:46
To: [REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

No problem, Perm Sec uses WebEx frequently so should be fine with the set up. If you could send over the joining details that would be great and I'll let Perm Sec know to expect the call to be a bit shorter. I'll also amend the diary invite to 30 minutes.

Many thanks

[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 25 January 2021 10:56
To: Permanent Secretary <PermanentSecretary@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>
Subject: FW: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Just wanted to send a quick update on this and flag a couple of things.

I will send through some joining instructions later today. I wanted to flag that we intend to use Cisco Webex for the interviews, and so participants would need to sign up for a free account with the service unless they have one already. It would be helpful to conduct a short technical test to make sure everything works ok.

Mr Hamilton has been finalising his list of questions, and is likely to need only a comparatively short meeting- probably less than half an hour. On that basis I expect that the meeting will finish a lot earlier than the time we have held in the diary. Could you let the Permanent Secretary know that the meeting is likely to be quite brief?

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 21 January 2021 15:46
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi Andy,

Many thanks, will do.

Best wishes,

[REDACTED]

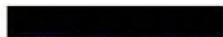
From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 21 January 2021 15:40
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Jus to confirm that Perm Sec is happy to proceed with the interview by video conference next week. Please could you liaise with [REDACTED] in the Perm Sec team about details?

Thanks
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government


andrew.bruce@gov.scot

From:  [@gov.scot](mailto:andrew.bruce@gov.scot)
Sent: 21 January 2021 12:55
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi Andy,

Mr Hamilton would like to proceed with the interview, so can we confirm it in the diary?

Mr Hamilton would like to conduct the interview by videoconference, and I'm finalising the arrangements that would facilitate this. Would this be ok?

Best wishes,

From: 
Sent: 21 January 2021 12:13
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi Andy,

Apologies, this was on my to do list for today.

I will check with Mr Hamilton whether he would like the interview to go ahead, and if so will send some additional information on the arrangements.

Best wishes,

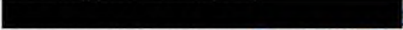
From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 21 January 2021 12:08
To:  [@gov.scot](mailto:andrew.bruce@gov.scot)
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

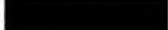
Hi 
We're just looking at Perm Sec's calendar for next week where we have been holding a slot for her to speak to Mr Hamilton. Do you yet know whether Mr Hamilton will definitely want to speak with Perm Sec?
Thanks
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary

Scottish Government


andrew.bruce@gov.scot

From: Bruce A (Andrew)
Sent: 07 January 2021 12:58
To:  [<@gov.scot>](mailto:@gov.scot)
Cc: Permanent Secretary [<PermanentSecretary@gov.scot>](mailto:PermanentSecretary@gov.scot)
Subject: RE: Ministerial Code investigation- video interview- availability

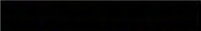
Thanks 

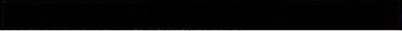
 – please can you add to the diary?

Thanks

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government


andrew.bruce@gov.scot

From:  [<@gov.scot>](mailto:@gov.scot)
Sent: 07 January 2021 12:32
To: Bruce A (Andrew) [<Andrew.Bruce@gov.scot>](mailto:Andrew.Bruce@gov.scot)
Subject: RE: Ministerial Code investigation- video interview- availability

That would be great, thanks. I will let you know as soon as I can whether the meeting is required.

From: Bruce A (Andrew) [<Andrew.Bruce@gov.scot>](mailto:Andrew.Bruce@gov.scot)
Sent: 07 January 2021 10:42
To:   [<@gov.scot>](mailto:@gov.scot)
Cc: Permanent Secretary [<PermanentSecretary@gov.scot>](mailto:PermanentSecretary@gov.scot)
Subject: RE: Ministerial Code investigation- video interview- availability

Hi 
Shall we hold 2.30-3.30 on Wednesday 27 January?
Thanks
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government


andrew.bruce@gov.scot

From:  [<@gov.scot>](mailto:@gov.scot)
Sent: 07 January 2021 09:42

To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

An hour would be enough I think.

Best wishes,

[REDACTED]

From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 06 January 2021 17:53
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

No problem [REDACTED]
How long do you think we should set aside?
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]
andrew.bruce@gov.scot

From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 06 January 2021 17:07
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi Andy,

Apologies for the delay in getting back to you. Mr Hamilton could do any time that week. Could we hold a slot for a meeting in case it is needed? I can let you know closer to the time if it is required.

Happy to discuss.

Best wishes,

[REDACTED]

From: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Sent: 18 December 2020 17:35
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

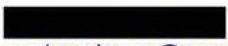
Hi [REDACTED]

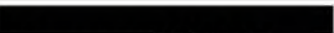
Thanks for your message which I have discussed with the Permanent Secretary. She was wondering whether it would be possible to schedule an interview during the week commencing 25 January?

Thanks

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government


andrew.bruce@gov.scot

From:  [@gov.scot](mailto: @gov.scot)>
Sent: 16 December 2020 12:37
To: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: Ministerial Code investigation- video interview- availability

P/S Permanent Secretary,

As you know, James Hamilton is currently conducting an investigation into the First Minister's self-referral under the Ministerial Code. The Permanent Secretary has provided a written statement to Mr Hamilton.

As set out in his letter of September 2020, Mr Hamilton may wish to invite those who have provided written statements to him to participate in an interview to discuss the content of the written statement, and to allow Mr Hamilton to ask any supplementary questions.

Mr Hamilton is finalising his consideration of written statements, and would like to ask whether the Permanent Secretary would be available to participate in a video interview in the weeks commencing 11th and 18th January 2021?

Best wishes,



Video Interview with James Hamilton, Independent Advisor on the Ministerial Code

Thank you for agreeing to participate in a video interview with James Hamilton, Independent Advisor on the Ministerial Code.

These joining instructions explain key aspects of how the interview will be conducted.

The time and date of the relevant interview has been agreed, and a calendar request created.

Video Conferencing

The current lockdown arrangements make it legally mandatory for work to be done at from home where possible; in addition, travel restrictions relating to domestic and international travel are in place. For these reasons, the interviews will be conducted via videoconference, using Cisco Webex.

This software allows video and audio conferencing, and can be accessed via Scots, Microsoft and Apple devices.

Participants need to create a Cisco Webex account to access the meeting. Instructions on how to do this can be found here: <https://cart.webex.com/sign-up-webex>

The secretariat will arrange a test of the videoconferencing arrangements before each interview.

Attendees

Attendees may bring a companion to the meetings, e.g. from a trade union if they are a member.

A member of the secretariat will attend the meetings, to ensure the meeting progresses smoothly, and to ensure the recording of the meeting.

Recording of the meeting

An audio recording of the meeting will be taken. The secretariat will also take notes.

The secretariat will use the recordings to produce a transcript of the meeting. The transcript will be shared with the participant within 10 working days of the meeting.

Once the transcript is agreed, the audio recording will then be destroyed.

Re: Email to the Committee

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Wed, 27 Jan 2021 17:44:43 +0000
Attachments: JH edit Committee email January 2021.docx (7.88 kB)

Hi [REDACTED]

Edited response (one minor change) attached.

James

On Wed, 27 Jan 2021 at 17:30, <[REDACTED]@gov.scot> wrote:

Hi James,

Please see attached draft response to the Committee clerks. They are hoping for a response by Friday lunchtime if possible.

Best wishes,

[REDACTED]

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For more information please visit <http://www.symanteccloud.com>

Thank you for your email.

As you know, Mr Hamilton has sought written submissions from a range of participants.

Mr Hamilton is also currently undertaking video interviews with some participants where he has additional questions he wishes to ask them.

Mr Hamilton intends to complete his report as soon as possible, and is conscious that the Scottish Parliament election is scheduled to take place in early May 2021.

Mr Hamilton is aware that it is intended that his report will be published, and will take the necessary steps to ensure that his report is compliant with any relevant court orders.

From: [REDACTED]
Sent: 27 January 2021 09:44
To: James Hamilton [REDACTED]
Subject: RE: FW: Mr Hamilton-[REDACTED]

No problem, speak to at 12.

From: James Hamilton <[REDACTED]>
Sent: 27 January 2021 09:42
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Re: FW: Mr Hamilton-[REDACTED]

Thanks, [REDACTED], and apologies for sending yet another blank email.

If you are free at around 12.00 noon we might discuss briefly.

James

On Wed 27 Jan 2021 at 09:35 James Hamilton <[REDACTED]> wrote:

On Wed 27 Jan 2021 at 09:25 <[REDACTED]@gov.scot> wrote:
Hi James,

Please see below email from Mr Ross [REDACTED]
[REDACTED]

Best wishes,

[REDACTED]

From: Douglas Ross <[REDACTED]>
Sent: 26 January 2021 19:09
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: RE: Mr Hamilton-[REDACTED]

Dear [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Happy to discuss any matters arising.

Regards

Douglas
Douglas Ross QC Ampersand Advocates

phone: [REDACTED]
web: www.ampersandadvocates.com

Clerk: [Alan Moffat](#)
Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)



Leading Top Ranked Set in Chambers & Partners and The Legal 500

From: [REDACTED] [@gov.scot](mailto:[REDACTED]@gov.scot)>
Sent: 26 January 2021 10:18
To: Douglas Ross <[REDACTED]>
Subject: RE: Mr Hamilton-[REDACTED]

Dear Douglas,

[REDACTED]

I think a response late afternoon or tomorrow morning would still be of assistance, I will let Mr Hamilton know of the timings so he is aware.

Best wishes,

[REDACTED]

From: Douglas Ross <[REDACTED]>
Sent: 25 January 2021 21:11
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: RE: Mr Hamilton-[REDACTED]

Dear [REDACTED]

Happy New Year to you. I had a rather strange festive break. The whole family went down with Covid, which put a bit of a damper on things. We're all much improved now, although there's still a bit of Covid coughing to be heard.

I am working to a deadline tomorrow on another piece of work. Hopefully I will finish it by about early to mid-afternoon which would allow me to look at [REDACTED] [REDACTED]. Perhaps you could let me know if a response which might come pretty late in the day or even first thing on Wednesday would still be of assistance to Mr Hamilton.

Regards

Douglas
Douglas Ross QC Ampersand Advocates

phone: [REDACTED]
web: www.ampersandadvocates.com

Clerk: [Alan Moffat](#)

Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)



Leading Top Ranked Set in Chambers & Partners and The Legal 500

From: [REDACTED]@gov.scot>
Sent: 25 January 2021 17:43
To: Douglas Ross <[REDACTED]>
Subject: Mr Hamilton-[REDACTED]

Dear Douglas,

Apologies for the length of time since I last contacted you- hope you are well and that you had a good Christmas and New Year.

Mr Hamilton has been considering various written statements, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Happy to discuss.

Best wishes,

[REDACTED]

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return.

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RE: Ministerial Code investigation- video interview- availability

From: First Minister <firstminister@gov.scot>
To: [REDACTED]@gov.scot>
Date: Wed, 27 Jan 2021 20:26:30 +0000

Hi [REDACTED]

Ok. Maybe we can make it work with iPads instead of Scots accounts.

Are you free on Monday morning for a trial run? I am in Parliament tomorrow and I am working from home on Friday so not much point in me trying from there.

Completely understand why you use Webex – I just want to make sure it works.

Let me know what works best for you?

Kind regards

[REDACTED] PS/First Minister | T: [REDACTED] | M: [REDACTED]

All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

From: [REDACTED]@gov.scot>
Sent: 27 January 2021 16:02
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Many thanks. I have attached some generic joining instructions which set out things like recording, attendees etc.

I have also had massive issues with Webex- sound kept cutting out on my test calls with Mr Hamilton, and I think that it works really inconsistently with Scots devices. I've actually taken to hosting from my personal phone as that seemed more stable.

The reason we are using Webex not teams is it is the only Scots compatible VC software that allows the conversation to be recorded- I had looked at using teams but the option to record the meeting is currently unavailable within Scots.

Best wishes,

[REDACTED]

From: [REDACTED] [REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 27 January 2021 15:47
To: [REDACTED] [REDACTED]@gov.scot>
Cc: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Thanks [REDACTED]

We are actually not the biggest fan of Webex we have nothing but issues with it – we have done a test run today for another call that FM is doing tomorrow and it cut out after 2 minutes and we couldn't reconnect. A test run would be really helpful – I don't want it cutting out just as they are getting started but would Teams be an option as an alternative?

Kind regards

[REDACTED]
PS/First Minister | T: [REDACTED] | M: [REDACTED]

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From: [REDACTED] [REDACTED]@gov.scot>
Sent: 26 January 2021 15:18
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

14:30 would be great. We are using Cisco Webex for the interviews, and I think it would be helpful to arrange a short technical test before we go ahead. Whilst Webex is reasonably intuitive it seems to have some really annoying glitches with Scots devices.

I will send through some background stuff later today, which gives information on a range of things including attendees, recording and note taking. Happy to discuss.

Best wishes,

From: [REDACTED] [REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 26 January 2021 14:11
To: [REDACTED] [REDACTED]@gov.scot>; First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

No worries. Would 1430 be ok?

Can I also check what app we will be using for the call – just to make sure we have everything set up well in advance.

Many thanks



PS/First Minister | T: [REDACTED] | M: [REDACTED]

All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 26 January 2021 13:53
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Apologies about the delay, I realised we hadn't fixed a specific time on the 1st. Mr Hamilton could do anytime that afternoon, so let me know what time would work best.

Best wishes,



From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 18 January 2021 19:02
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Thanks [REDACTED] we will hold the afternoon of the 1st February.

Kind regards



PS/First Minister | T: [REDACTED] | M: [REDACTED]

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From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 18 January 2021 18:11
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Many thanks. I think Mr Hamilton now has other commitments on the 29th so can we hold a slot on the afternoon of the 1st?

Best wishes,

[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 18 January 2021 16:14
To: [REDACTED] <[REDACTED]@gov.scot>; First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Could we pencil in for 29 January and/or 01 February.

I can keep both dates available for Mr Hamilton to try and make it work?

Let me know what times would best suit.

Kind regards

[REDACTED]

PS/First Minister | T: [REDACTED] | M: [REDACTED]

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From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 12 January 2021 17:56
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Mr Hamilton can do the 25th and the 29th, and possible the 26th (would be able to confirm next week).

Any time in the week of the 1st would be ok.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 12 January 2021 17:11
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Many thanks, I will ask Mr Hamilton for his availability in those two weeks and get back to you as soon as possible.

Best wishes,

[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 11 January 2021 11:20
To: [REDACTED] <[REDACTED]@gov.scot>; First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

[REDACTED]

Apologies for the delay in getting back to you and no worries for cancelling the meeting – I know how busy everyone is just now.

The week commencing the 25th January is when we are expecting the First Minister to be at committee. What dates and times would suit Mr Hamilton for that week? Would you be able to identify some dates for WC 25 January and also WC 01 February so we can give both Mr Hamilton and the First Minister a bit of flexibility?

As always happy to discuss further.

Kind regards

[REDACTED]

PS/First Minister | T: [REDACTED] | M: [REDACTED]

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From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 06 January 2021 17:00
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

With apologies for any trouble caused, could we cancel the meeting arranged for next week?

Mr Hamilton is considering some additional written statements and documents and would like to defer any meeting with the First Minister until he has finished this work, so he can be sure of which issues he might want to discuss.

Mr Hamilton has indicated he may have some questions he would like to discuss with the FM- would it be possible to have a provisional slot in the diary in the week of the 25th in case this is required?

Happy to discuss.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 30 December 2020 16:45
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Many thanks for suggesting these dates and understand that the date may need to change depending on any emergency business that might arise. Mr Hamilton would prefer the 13th if that would be possible?

I need to do a couple of things to finalise arrangements for the video interviews, but once I have done that I will send over some joining instructions. It would also be helpful to arrange a technical test with someone from the private office a couple of days before the meeting just to check everything works.

Best wishes,

[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 22 December 2020 19:29
To: [REDACTED] <[REDACTED]@gov.scot>; First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

[REDACTED]

Apologies for the delay in getting back to you.

Can we suggest two dates please – Wednesday the 13th and Wednesday the 20th, both around 1500hrs . I do want to add a caveat (as I have to do with any meetings I currently arrange) that the First Minister may have to react to urgent business and I therefore may ask to reschedule. This would only be in an emergency situation and I will make all attempts to ensure the meeting takes place.

Grateful if you could send me the details of the video interview so I can arrange set up.

Please do not hesitate to contact me if you have any problems or queries.

Best wishes

[REDACTED]

[REDACTED]
Private Secretary to the First Minister

5th Floor | St Andrew's House | Regent Road | Edinburgh | EH1 3DG | T: [REDACTED] M: [REDACTED]



Office of the First Minister of Scotland

FirstMinister.gov.scot

Prìomh Mhinistear na h-Alba

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From: [REDACTED] <[REDACTED]@gov.scot>

Sent: 16 December 2020 12:37

To: First Minister <firstminister@gov.scot>

Subject: Ministerial Code investigation- video interview- availability

P/S First Minister,

As you know, James Hamilton is currently conducting an investigation into the First Minister's self-referral under the Ministerial Code. The First Minister has provided a written statement to Mr Hamilton.

As set out in his letter of September 2020, Mr Hamilton may wish to invite those who have provided written statements to him to participate in an interview to discuss the content of the written statement and to allow Mr Hamilton to ask any supplementary questions.

Mr Hamilton is finalising his consideration of written statements, and would like to ask whether the First Minister would be available to participate in a video interview in the week commencing 11th or 18th of January 2021?

Best wishes,

[REDACTED] [REDACTED]

RE: Ministerial Code investigation- video interview- availability

From: [REDACTED]@gov.scot>
To: First Minister <firstminister@gov.scot>
Date: Wed, 27 Jan 2021 16:01:48 +0000
Attachments: Video Interview- joining instructions.docx (15.02 kB)

Hi [REDACTED]

Many thanks. I have attached some generic joining instructions which set out things like recording, attendees etc.

I have also had massive issues with Webex- sound kept cutting out on my test calls with Mr Hamilton, and I think that it works really inconsistently with Scots devices. I've actually taken to hosting from my personal phone as that seemed more stable.

The reason we are using Webex not teams is it is the only Scots compatible VC software that allows the conversation to be recorded- I had looked at using teams but the option to record the meeting is currently unavailable within Scots.

Best wishes,

[REDACTED]

From: [REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 27 January 2021 15:47
To: [REDACTED]@gov.scot>
Cc: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Thanks [REDACTED]

We are actually not the biggest fan of Webex we have nothing but issues with it – we have done a test run today for another call that FM is doing tomorrow and it cut out after 2 minutes and we couldn't reconnect. A test run would be really helpful – I don't want it cutting out just as they are getting started but would Teams be an option as an alternative?

Kind regards

[REDACTED]

PS/First Minister | [REDACTED]

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From: [REDACTED]@gov.scot>
Sent: 26 January 2021 15:18

To: First Minister <firstminister@gov.scot>

Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

14:30 would be great. We are using Cisco Webex for the interviews, and I think it would be helpful to arrange a short technical test before we go ahead. Whilst Webex is reasonably intuitive it seems to have some really annoying glitches with Scots devices.

I will send through some background stuff later today, which gives information on a range of things including attendees, recording and note taking. Happy to discuss.

Best wishes,

[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> On Behalf Of First Minister

Sent: 26 January 2021 14:11

To: [REDACTED] <[REDACTED]@gov.scot>; First Minister <firstminister@gov.scot>

Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

No worries. Would 1430 be ok?

Can I also check what app we will be using for the call – just to make sure we have everything set up well in advance.

Many thanks

[REDACTED]

PS/First Minister | T: [REDACTED]

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From: [REDACTED] <[REDACTED]@gov.scot>

Sent: 26 January 2021 13:53

To: First Minister <firstminister@gov.scot>

Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Apologies about the delay, I realised we hadn't fixed a specific time on the 1st. Mr Hamilton could do anytime that afternoon, so let me know what time would work best.

Best wishes,

[REDACTED]

From: [REDACTED] [REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 18 January 2021 19:02
To: [REDACTED] [REDACTED]@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Thanks [REDACTED] we will hold the afternoon of the 1st February.

Kind regards



PS/First Minister | [REDACTED]

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From: [REDACTED] [REDACTED]@gov.scot>
Sent: 18 January 2021 18:11
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Many thanks. I think Mr Hamilton now has other commitments on the 29th so can we hold a slot on the afternoon of the 1st?

Best wishes,



From: [REDACTED] [REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 18 January 2021 16:14
To: [REDACTED] [REDACTED]@gov.scot>; First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Could we pencil in for 29 January and/or 01 February.

I can keep both dates available for Mr Hamilton to try and make it work?

Let me know what times would best suit.

Kind regards



PS/First Minister | [REDACTED]

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meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 12 January 2021 17:56
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Mr Hamilton can do the 25th and the 29th, and possible the 26th (would be able to confirm next week).

Any time in the week of the 1st would be ok.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 12 January 2021 17:11
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi [REDACTED]

Many thanks, I will ask Mr Hamilton for his availability in those two weeks and get back to you as soon as possible.

Best wishes,

[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 11 January 2021 11:20
To: [REDACTED] <[REDACTED]@gov.scot>; First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

[REDACTED]

Apologies for the delay in getting back to you and no worries for cancelling the meeting – I know how busy everyone is just now.

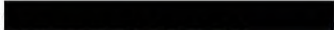
The week commencing the 25th January is when we are expecting the First Minister to be at committee. What dates and times would suit Mr Hamilton for that week? Would you be able to identify some dates for WC 25 January and also WC 01 February so we can give both Mr Hamilton and the First Minister a bit of flexibility?

As always happy to discuss further.

Kind regards

 PS/First Minister | 

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From:   <img@gov.scot>
Sent: 06 January 2021 17:00
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi 

With apologies for any trouble caused, could we cancel the meeting arranged for next week?

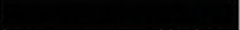
Mr Hamilton is considering some additional written statements and documents and would like to defer any meeting with the First Minister until he has finished this work, so he can be sure of which issues he might want to discuss.

Mr Hamilton has indicated he may have some questions he would like to discuss with the FM- would it be possible to have a provisional slot in the diary in the week of the 25th in case this is required?

Happy to discuss.

Best wishes,



From: 
Sent: 30 December 2020 16:45
To: First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

Hi 

Many thanks for suggesting these dates and understand that the date may need to change depending on any emergency business that might arise. Mr Hamilton would prefer the 13th if that would be possible?

I need to do a couple of things to finalise arrangements for the video interviews, but once I have done that I will send over some joining instructions. It would also be helpful to arrange a technical test with someone from the private office a couple of days before the meeting just to check everything works.

Best wishes,



From: [REDACTED] [REDACTED]@gov.scot> **On Behalf Of** First Minister
Sent: 22 December 2020 19:29
To: [REDACTED] [REDACTED]@gov.scot>; First Minister <firstminister@gov.scot>
Subject: RE: Ministerial Code investigation- video interview- availability

[REDACTED]

Apologies for the delay in getting back to you.

Can we suggest two dates please – Wednesday the 13th and Wednesday the 20th, both around 1500hrs . I do want to add a caveat (as I have to do with any meetings I currently arrange) that the First Minister may have to react to urgent business and I therefore may ask to reschedule. This would only be in an emergency situation and I will make all attempts to ensure the meeting takes place.

Grateful if you could send me the details of the video interview so I can arrange set up.

Please do not hesitate to contact me if you have any problems or queries.

Best wishes

[REDACTED]

Private Secretary to the First Minister
5th Floor | St Andrew's House | Regent Road | Edinburgh | EH1 3DG | [REDACTED]
[REDACTED]



Office of the First Minister of Scotland

FirstMinister.gov.scot

Prìomh Mhinistear na h-Alba

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From: [REDACTED] [REDACTED]@gov.scot>
Sent: 16 December 2020 12:37
To: First Minister <firstminister@gov.scot>
Subject: Ministerial Code investigation- video interview- availability

P/S First Minister,

As you know, James Hamilton is currently conducting an investigation into the First Minister's self-referral under the Ministerial Code. The First Minister has provided a written statement to Mr Hamilton.

As set out in his letter of September 2020, Mr Hamilton may wish to invite those who have provided written statements to him to participate in an interview to discuss the content of the written statement and to allow Mr Hamilton to ask any supplementary questions.

Mr Hamilton is finalising his consideration of written statements, and would like to ask whether the First Minister would be available to participate in a video interview in the week commencing 11th or 18th of January 2021?

Best wishes,

■■■■ ■■■■

Video Interview with James Hamilton, Independent Advisor on the Ministerial Code

Thank you for agreeing to participate in a video interview with James Hamilton, Independent Advisor on the Ministerial Code.

These joining instructions explain key aspects of how the interview will be conducted.

The time and date of the relevant interview has been agreed, and a calendar request created.

Video Conferencing

The current lockdown arrangements make it legally mandatory for work to be done at from home where possible; in addition, travel restrictions relating to domestic and international travel are in place. For these reasons, the interviews will be conducted via videoconference, using Cisco Webex.

This software allows video and audio conferencing, and can be accessed via Scots, Microsoft and Apple devices.

Participants need to create a Cisco Webex account to access the meeting. Instructions on how to do this can be found here: <https://cart.webex.com/sign-up-webex>

The secretariat will arrange a test of the videoconferencing arrangements before each interview.

Attendees

Attendees may bring a companion to the meetings, e.g. from a trade union if they are a member.

A member of the secretariat will attend the meetings, to ensure the meeting progresses smoothly, and to ensure the recording of the meeting.

Recording of the meeting

An audio recording of the meeting will be taken. The secretariat will also take notes.

The secretariat will use the recordings to produce a transcript of the meeting. The transcript will be shared with the participant within 10 working days of the meeting.

Once the transcript is agreed, the audio recording will then be destroyed.

Re: FW: Confirmation

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Thu, 28 Jan 2021 17:40:33 +0000

Afternoon I think

On Thu 28 Jan 2021 at 17:39 <[REDACTED]@gov.scot> wrote:

Any preferences on time?

From: James Hamilton <[REDACTED]@[REDACTED]>
Sent: 28 January 2021 17:37
To: [REDACTED]@gov.scot>
Subject: Re: FW: Confirmation

Yes, OK

On Thu 28 Jan 2021 at 17:35 <[REDACTED]@gov.scot> wrote:

Hi James,

Would the 3rd work to speak to Liz Lloyd?

Best wishes,

[REDACTED]

From: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>
Sent: 27 January 2021 19:45
To: [REDACTED]@gov.scot>
Subject: RE: Confirmation

[REDACTED]

I can make myself available on any of those days. If there's a time on the 3rd that suits, I'd be happy to do that

Liz

Elizabeth Lloyd

Chief of Staff to the First Minister

St Andrew's House

Regent Road

Edinburgh EH1 3DG



Elizabeth.Lloyd@gov.scot

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From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 27 January 2021 17:34
To: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>
Subject: RE: Confirmation

Hi Liz,

I've checked with Mr Hamilton, and he would like to arrange a video interview. He wondered if you were free at all later next week, perhaps on the 3rd, 4th or 5th?

Best wishes,



From: [REDACTED]
Sent: 27 January 2021 11:38
To: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>
Subject: RE: Confirmation

Hi Liz,

Apologies, I had started drafting a response to your email but wanted to check with Mr Hamilton before replying on the interview. He is considering your written statement at the moment and will confirm (hopefully today) whether he would like to proceed with an interview.

Separately, I now have confirmed the times for other interviews next week, and wondered if holding a slot at 4pm on the 1st would work for you? If Mr Hamilton concludes it is not needed we can of course cancel.

Happy to discuss the FOI.

Best wishes,

[REDACTED]

From: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>
Sent: 27 January 2021 11:34
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Confirmation

[REDACTED]

I just wanted to check you got my email on Monday with the further submission, and if you had any more clarity on whether and when it would be appropriate for me to speak to Mr Hamilton.

Also, I'll give you a call re the FOI

Liz

Elizabeth Lloyd

Chief of Staff to the First Minister

St Andrew's House

Regent Road

Edinburgh EH1 3DG

Tel: [REDACTED]

Mobile: [REDACTED]

Elizabeth.Lloyd@gov.scot

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Leslie Evans

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Thu, 28 Jan 2021 12:24:16 +0000
Attachments: Draft letter to Ms Leslie Evans.docx (7.91 kB)

Hi [REDACTED]

Could you send the attached letter to Leslie Evans please?

Best wishes

James

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For more information please visit <http://www.symanteccloud.com>

Draft letter to Ms Leslie Evans

Dear Ms Evans

Thank you for taking part in the interview with me yesterday afternoon which I found very helpful to me.

I would like to apologise for any confusion I may have caused. I had intended to send a list of questions to you in advance especially since some of the information requested was rather technical but unfortunately I failed to give the necessary instruction to do this. I would certainly not have opened the interview with such a complicated question had I realised you did not have the list!

I have asked for the list to be sent to you as an *aide memoire* in passing on some information as agreed at the interview.

Yours sincerely

James Hamilton

Correspondence from James Hamilton

From: [REDACTED]@gov.scot>
To: Permanent Secretary <permanentsecretary@gov.scot>
Date: Fri, 29 Jan 2021 11:02:25 +0000
Attachments: Correspondence- Mr Hamilton to the Permanent Secretary- 29 January.docx (16.03 kB)

Hi Andy,

Please see attached letter from Mr Hamilton, for the attention of the Permanent Secretary.

Best wishes,

[REDACTED]

James Hamilton
Independent Adviser on the Scottish Ministerial Code

□

Leslie Evans, Permanent Secretary
By email to: leslie.evans@gov.scot

29 January 2021

Dear Ms Evans

Thank you for taking part in the interview with me yesterday afternoon which I found very helpful to me.

I would like to apologise for any confusion I may have caused. I had intended to send a list of questions to you in advance especially since some of the information requested was rather technical but unfortunately I failed to give the necessary instruction to do this. I would certainly not have opened the interview with such a complicated question had I realised you did not have the list!

I have asked for the list to be sent to you as an *aide memoire* in passing on some information as agreed at the interview.

Yours sincerely,

James Hamilton